

ARKANSAS CODE OF 1987 ANNOTATED



2019 SUPPLEMENT VOLUME 8B

Place in pocket of bound volume

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
ARKANSAS CODE REVISION COMMISSION

Speaker Matthew J. Shepherd, *Chair*

Representative Jimmy Gazaway

Senator Bob Ballinger

Senator Will Bond

Honorable Bettina E. Brownstein

Honorable Haley Heath

Honorable Candice Settle

Honorable Margaret Sova McCabe, *Dean, University of Arkansas at
Fayetteville School of Law*

Honorable Theresa Beiner, *Dean, University of Arkansas at
Little Rock William H. Bowen School of Law*

Honorable Cory Cox, *Legislative Director, Office of
the Attorney General*

Honorable Matthew B. Miller, *Assistant Director for Legal Services of
the Bureau of Legislative Research*



LexisNexis®

COPYRIGHT © 2017, 2019

BY

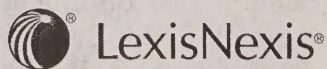
THE STATE OF ARKANSAS

All Rights Reserved

LexisNexis and the Knowledge Burst logo are registered trademarks, and Michie is a trademark of Reed Elsevier Properties Inc. used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

*For information about this Supplement, see the
Supplement pamphlet for Volume 1A*

ISBN 978-0-327-10031-7 (Code set)
ISBN 978-1-63284-889-5 (Volume 8B)



Matthew Bender & Company, Inc.

701 East Water Street, Charlottesville, VA 22902

www.lexisnexis.com

TITLE 12

LAW ENFORCEMENT, EMERGENCY MANAGEMENT, AND MILITARY AFFAIRS

(CHAPTERS 1-59 IN VOLUME 8A)

SUBTITLE 4. MILITARY AFFAIRS

CHAPTER.

- 60. GENERAL PROVISIONS.
- 61. MILITARY FORCES.
- 62. MILITARY PERSONNEL.
- 63. MILITARY PROPERTY.
- 64. MILITARY JUSTICE.

SUBTITLE 5. EMERGENCY MANAGEMENT

CHAPTER.

- 75. ARKANSAS EMERGENCY SERVICES ACT OF 1973.
- 78. EMERGENCY COMMUNICATIONS ACT OF 1991.
- 79. ARKANSAS HAZARDOUS AND TOXIC MATERIALS EMERGENCY NOTIFICATION ACT.
- 80. EARTHQUAKE RESISTANT DESIGN FOR PUBLIC STRUCTURES.
- 82. ARKANSAS SERC/LEPC ACT.
- 83. EMERGENCY VOLUNTEER RESERVE ACT OF 1985.
- 86. EMERGENCY PREPAREDNESS.
- 88. BUSINESS RAPID RESPONSE TO STATE DISASTERS FACILITATION ACT.

SUBTITLE 4. MILITARY AFFAIRS

CHAPTER 60

GENERAL PROVISIONS

SECTION.

- 12-60-102. Definitions.
- 12-60-103. Persons subject to the code.

Effective Dates. Acts 2019, No. 211, § 23: Feb. 26, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the removal of officers who are substandard in performance of duty or in conduct, deficient in character, or unsuited for military service is of paramount importance to the good order and discipline of the Arkansas National Guard and

security of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto".

12-60-102. Definitions.

As used in this code:

(1) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused;

(2) "Active state duty" means duty in the active military service of the state under an order of the Governor issued pursuant to authority vested in him or her by law and while going to and returning from such duty;

(3) "Code" means the Military Code of Arkansas, Title 12, Chapters 60 through 64;

(4) "Commanding officer" includes only commissioned officers;

(5) "Commissioned officer" includes a commissioned warrant officer;

(6) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer in command for the time being and successors in command;

(7) "Duty status" means the time from the date when a person is required by the terms of a call or order to obey the call or order and includes any of the following periods:

(A) Travel to and from a training site or duty station;

(B) Intervals between consecutive periods of inactive duty training on the same day;

(C) Intervals between inactive duty training on consecutive days;
or

(D) The entire day that inactive duty training is performed;

(8) "Enemy" shall be deemed to include any person or persons engaged or participating in a riot, riotous activity, resistance to lawful process, insurrection, or rebellious assembly;

(9) "Enlisted member" means a person enlisted in, or inducted, called, or conscripted into, an armed force in an enlisted grade;

(10) "Extramartial conduct" means any of the following acts engaged in by two (2) persons of the same or opposite sex:

(A) Genital-to-genital sexual intercourse;

(B) Oral-to-genital sexual contact;

(C) Anal-to-genital sexual contact; or

(D) Oral-to-anal sexual contact;

(11) "Grade" means a step or degree in a graduated scale of office or military rank that is established and designated as a grade by law or rule;

(12) "Law officer" means an official of a general court-martial detailed in accordance with this code;

(13) "Military" refers to any or all of the armed forces;

(14) “Military court” means a court-martial, a court of inquiry, or a provost court;

(15) “Officer” means a commissioned or warrant officer;

(16) “Organized militia” means the National Guard of the state as defined in 32 U.S.C. § 101(3);

(17) “Rank” means the order of precedence among members of the armed forces;

(18) “Sexual conduct” means any act of:

(A) Sexual gratification involving penetration, however slight, of the anus or mouth of a person by the penis of another person;

(B) Sexual gratification involving penetration, however slight, of the labia majora or anus of a person by any body member or foreign instrument manipulated by another person;

(C) Penetration, however slight, of the labia majora by a penis;

(19) “State Judge Advocate” means the commissioned officer responsible for supervising the administration of the military justice in the organized militia; and

(20) “Superior commissioned officer” means a commissioned officer superior in rank or command.

History. Acts 1969, No. 50, § 46; A.S.A. 1947, § 11-601; Acts 2015, No. 1003, § 2; 2019, No. 211, § 1; 2019, No. 315, § 916.

by No. 211 added the definitions for “Duty status” and “Extramarital conduct”.

The 2019 amendment by No. 315 substituted “rule” for “regulation” in (11).

Amendments. The 2019 amendment

12-60-103. Persons subject to the code.

The following persons who are not in federal service are subject to this code:

(1) Members of the organized militia.

(2) All other persons lawfully ordered to a duty status in or with the organized militia, including the Army National Guard, Air National Guard, the Arkansas Guard, and all persons ordered to a duty status in or with any of the foregoing from the dates they are required by the terms of the order or other directive to obey the code.

History. Acts 1969, No. 50, § 47; A.S.A. 1947, § 11-602; Acts 2019, No. 211, § 2.

substituted “to a duty status” for “to duty” twice in (2).

Amendments. The 2019 amendment

CHAPTER 61

MILITARY FORCES

SUBCHAPTER.

1. STATE MILITIA GENERALLY.

2. NATIONAL GUARD GENERALLY.

3. STATE DEFENSE FORCE.

SUBCHAPTER 1 — STATE MILITIA GENERALLY

SECTION.

- 12-61-103. Governor's powers and duties generally.
- 12-61-104. Custom and usage of the United States Armed Forces.
- 12-61-106. Adjutant General — Powers and duties.
- 12-61-107. Employment of personnel.
- 12-61-111. Ordering militia into service.
- 12-61-116. Excuse from duty.

SECTION.

- 12-61-117. Draft of the unorganized militia — Failure to appear — Penalty.
- 12-61-121. Awards, medals, etc.
- 12-61-123. Bureau of War Records.
- 12-61-124. National Guard Youth Challenge Program.
- 12-61-127. [Repealed.]
- 12-61-128. [Repealed.]

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emer-

gency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

12-61-103. Governor's powers and duties generally.

(a)(1) The Governor is authorized to make such rules governing the government, organization, discipline, and training of the militia as he or she may deem expedient.

(2) Such rules shall conform to the provisions of this code and, as nearly as practicable, to those governing the United States Armed Forces.

(3) When promulgated, the rules shall have the same force and effect as the provisions of this code.

(4) Such rules shall not be repealed, altered, amended, or added to, except with the approval of the Governor.

(5) The rules in force at the time of the passage of this code shall remain in force until new rules are approved and promulgated.

(b) The Governor may, by executive order, designate National Guard commissioned officers or warrant officers or active duty officers or warrant officers serving in armed forces recruiting offices inside or outside the State of Arkansas to administer the oath of enlistment to new members of the militia.

(c) Whenever he or she shall deem it necessary, the Governor may direct the members of the unorganized militia to present themselves for

and submit to registration at such time and place and in such manner as may be prescribed by rule.

History. Acts 1969, No. 50, §§ 5, 199; 1983, No. 412, § 1; A.S.A. 1947, §§ 11-105, 11-1101; Acts 2019, No. 315, §§ 917, 918.

Amendments. The 2019 amendment deleted “and regulations” following “rules” throughout (a); and substituted “rule” for “regulations” in (c).

12-61-104. Custom and usage of the United States Armed Forces.

All matters relating to the organization, discipline, and government of the organized militia, not otherwise provided for in this code or in rules issued pursuant thereto, shall be as prescribed by the customs and usages of the appropriate force or forces of the United States.

History. Acts 1969, No. 50, § 200; A.S.A. 1947, § 11-1102; Acts 2019, No. 315, § 919.

Amendments. The 2019 amendment substituted “rules” for “regulations”.

12-61-106. Adjutant General — Powers and duties.

(a) In addition to being a state staff officer, the Adjutant General shall be the Chief-of-Staff to the Commander-in-Chief and the Secretary of the Department of the Military.

(b) He or she shall perform the duties prescribed for him or her in this code and in the rules issued thereunder and in the statutes of the United States.

(c) He or she shall direct and supervise the functions and duties of the chief-of-staff departments.

(d) He or she shall hold office as provided in the National Defense Act, as amended.

(e) He or she shall superintend the preparation of all returns and reports required by the United States from the state.

(f) He or she shall have the custody of all military records, correspondence, and other military documents.

(g) He or she shall be the medium of military correspondence with the Governor and perform all other duties pertaining to his or her office prescribed by law.

(h) He or she shall keep a register of all the officers of the military forces of the state.

(i) He or she shall keep in his or her office all records and papers required to be kept and filed therein. He or she shall make such reports to the Governor, at such times as the Governor may require, of all the transactions of his or her department, setting forth the number, strength, and condition of the active militia and such other matters as he or she may deem important, including a detailed statement of all the expenditures for military purposes during that fiscal year.

(j) He or she shall, at the expense of the state, when necessary, cause the military law, instruction pamphlets, orders, and the general regu-

lations of the state and the United States to be printed, indexed, and distributed as deemed necessary.

(k) He or she shall cause to be prepared and issued all necessary blank books, blank forms, and notices required to carry into full effect the provisions of this code. All such books and blanks shall be and remain the property of the state.

(l) He or she shall procure and keep in his or her office a seal for the authentication of all certificates and other instruments emanating from his or her office, the device upon which such seal shall consist of a star with five (5) points with the words, "Office of the Adjutant General, State of Arkansas," around the margin and shall deliver the seal to his or her successor. He or she shall attest all commissions issued to military officers.

(m) He or she shall keep a just and true account of all state expenses necessarily incurred, including pay of officers and enlisted personnel, allowances to officers and organizations, and any other moneys required to be disbursed by him or her and through his or her office, including subsistence of the militia, transportation of the militia and of all military property of the state; and such expenses shall be audited and paid in the same manner as other military accounts are audited and paid.

(n) The Adjutant General may, at his or her discretion, inspect all units of the militia.

(o) For the purpose of effectively carrying out the terms of this code, the Adjutant General shall have the power to prescribe such rules as he or she may from time to time deem necessary.

History. Acts 1969, No. 50, §§ 6, 204; A.S.A. 1947, §§ 11-110, 11-1106; Acts 2019, No. 315, §§ 920, 921; 2019, No. 910, § 5530.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regula-

tions" in (b); and deleted "and regulations" following "rules" in (o).

The 2019 amendment by No. 910 substituted "Secretary of the Department of the Military" for "administrative head of the Military Department" in (a).

12-61-107. Employment of personnel.

(a) The Adjutant General shall have such assistance and such clerks, employees, and laborers as may be necessary from time to time who shall be appointed and may be removed by him or her at his or her discretion.

(b)(1) The Adjutant General may designate those positions that require the employee to be a member of the National Guard.

(2) This subsection shall only apply to a person who begins employment with the State Military Department after August 12, 2005, and with the Department of the Military after July 1, 2019.

History. Acts 1969, No. 50, § 12; A.S.A. 1947, § 11-112; Acts 2005, No. 52, § 1; 2019, No. 910, § 5531.

Amendments. The 2019 amendment added "and with the Department of the Military after July 1, 2019" in (b)(2).

12-61-111. Ordering militia into service.

(a)(1) The Governor shall have power to order into the active service of the state for such a period, to such extent, and in such manner as he or she may deem necessary, all or any part of the organized militia:

(A) In case of invasion, disaster, insurrection, riot, breach of the peace, or imminent danger thereof;

(B) To preserve the public health and security and maintain law and order;

(C) For the purpose of working with other state agencies in the planning and training for emergencies or disasters and to respond to emergencies or disasters; or

(D) For the purpose of addressing cybersecurity threats or cybersecurity vulnerabilities, including without limitation to protect:

(i) Critical infrastructure in the state;

(ii) An information system owned or operated by the state;

(iii) Information that is stored on, processed by, or transiting on an information system owned or operated by the state; or

(iv) The state by identifying the source of a cybersecurity threat.

(2) Such power shall include the power to order the organized militia or any part thereof to function under the operational control of the United States Army, United States Navy, or United States Air Force commander in charge of the defense of any area within the state.

(b)(1) Upon the request of either the judge or sheriff of a county or the mayor of a city, whenever it is made to appear to the Governor that there is a breach of the peace, riot, resistance to process of this state, or disaster or imminent danger thereof, the Governor may order into the active service of the state, for such period, to such extent, and in such manner as he or she may deem necessary, all or any part of the organized militia.

(2) The compensation of all officers and enlisted personnel while on duty or assembled pursuant to this subsection and all expenses incurred in connection with such duty or as a result thereof shall be paid in the manner prescribed by law.

History. Acts 1969, No. 50, §§ 6, 7; 1985, No. 670, § 1; A.S.A. 1947, §§ 11-106, 11-107; Acts 2009, No. 232, § 1; 2019, No. 149, § 1.

Amendments. The 2019 amendment added (a)(1)(D).

12-61-116. Excuse from duty.

(a) The officer ordering any military duty shall have the power to excuse any officer or enlisted person for absence therefrom upon good and sufficient grounds.

(b) The Governor, or commanding general of the National Guard with the approval of the Governor, may relieve any organization of the militia on active duty from the further performance of such duty and may order any other organization to perform such duty.

(c) However, the provisions of this section shall not curtail the rights of commanding officers to grant leaves of absence and furloughs as provided by rules unless they are specifically modified by orders from superior authority.

History. Acts 1969, No. 50, § 19; 1985, No. 670, § 2; A.S.A. 1947, § 11-119; Acts 2019, No. 315, § 922.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (c).

12-61-117. Draft of the unorganized militia — Failure to appear — Penalty.

(a) Whenever it shall be necessary in case of invasion, disaster, insurrection, riot, breach of the peace, or imminent danger thereof, or to maintain the organized militia or any force thereof at the number required for public safety or prescribed by the laws of the United States, the Governor may call for and accept from the unorganized militia as many volunteers as are required for service in the organized militia or he or she may direct the members of the unorganized militia or such of them as may be necessary to be drafted into the organized militia or any force thereof.

(b) Whenever it shall be necessary in such a case, the Governor may direct the members of the unorganized militia or such of them as may be necessary to be drafted, under such rules as he or she may prescribe, into the active service of the state to serve as directed by him or her.

(c) Any member of the unorganized militia who is ordered to register or to be drafted into the organized militia under the provisions of this code and who fails to appear at the time and place designated in such order shall be guilty of a misdemeanor and upon conviction by a civil court shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisonment in the county jail for a term of not less than one (1) month nor more than one (1) year, or both.

History. Acts 1969, No. 50, § 9; A.S.A. 1947, § 11-109; Acts 2019, No. 315, § 923.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (b).

12-61-121. Awards, medals, etc.

(a)(1) The Governor is authorized to award in the name of the State of Arkansas any medal, ribbon, or decoration for any exceptional or meritorious service rendered by any member of the organized militia.

(2) These include, but are not limited to, the “Arkansas Commendation Medal”, the “Arkansas Distinguished Service Medal”, and the “Arkansas Star of Honor”.

(3) The Department of the Military is authorized to promulgate necessary rules to establish the criteria under which any medal, ribbon, or decoration may be awarded.

(b) Whenever it shall appear to the satisfaction of the Adjutant General that any service medal duly issued by the State of Arkansas, in

accordance with the military rules, to a member of the organized militia, has been lost or stolen, he or she may, in his or her discretion, and upon such terms as he or she may impose upon written application of the person originally entitled to such medal, issue a duplicate thereof.

History. Acts 1969, No. 50, §§ 201, 202; A.S.A. 1947, §§ 11-1103, 11-1104; Acts 1991, No. 550, § 1; 2007, No. 47, § 1; 2019, No. 315, §§ 924, 925; 2019, No. 910, § 5532.

Amendments. The 2019 amendment

by No. 315 deleted “and regulations” following “rules” in (a)(3) and (b).

The 2019 amendment by No. 910 substituted “Department of the Military” for “State Military Department” in (a)(3).

12-61-123. Bureau of War Records.

(a) The Adjutant General may, at his or her discretion and with such funds as may be appropriated by the General Assembly, establish a Bureau of War Records.

(b) The bureau shall function in close connection with the Arkansas State Archives and shall gather items of military history of the Arkansas Militia for exhibition.

(c) The Adjutant General may adopt such reasonable and necessary rules as may be necessary to accomplish this purpose.

History. Acts 1969, No. 50, § 11; A.S.A. 1947, § 11-111; Acts 2016 (3rd Ex. Sess.), No. 2, § 96; 2016 (3rd Ex. Sess.), No. 3, § 96; 2019, No. 315, § 926.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the

appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” in (b).

The 2019 amendment substituted “rules” for “regulations” in (c).

12-61-124. National Guard Youth Challenge Program.

(a) The Adjutant General may, at his or her discretion and with such funds as may be appropriated by the General Assembly, or with such funds as may be provided by the United States, develop and implement a National Guard Youth Challenge Program for the purpose of providing training, education, health, welfare, rehabilitative, and other services to juveniles.

(b) The Adjutant General is authorized to enter into agreements, contracts, and memoranda of understanding with other state, federal, and local agencies, other persons, firms, and corporations for the purposes of providing training, education, health, welfare, rehabilitative, and other services to juveniles participating in the program.

(c) The Adjutant General may promulgate and issue such rules and other guidelines as may be necessary and proper to carry out the purposes and provisions of this section.

(d) [Repealed.]

History. Acts 1993, No. 375, § 1; 1995, No. 639, §§ 18, 19; 1997, No. 1201, § 2; 2019, No. 315, § 927; 2019, No. 910, § 5533.

Publisher's Notes. The 2019 amendment by No. 910 deleted the language "as may be implemented by the Adjutant General" from the end of subsection (b) without markup.

Amendments. The 2019 amendment by No. 315 deleted "regulations" following "rules" in (c).

The 2019 amendment by No. 910 substituted "National Guard Youth Challenge Program" for "Civilian juvenile student training programs" in the section heading; substituted "a National Guard Youth Challenge Program" for "civilian juvenile student training programs" in (a); in (b), deleted "and the juvenile courts of this state" following "corporations", and substituted "the program" for "such programs as may be implemented by the Adjutant General"; and deleted (d).

12-61-127. [Repealed.]

Publisher's Notes. This section, concerning Civilian Student Training Program stipend, uniforms, and clothing items, was repealed by Acts 2019, No. 910,

§ 5534, effective July 1, 2019. The section was derived from Acts 1995, No. 639, § 18; 1997, No. 821, § 22.

12-61-128. [Repealed.]

Publisher's Notes. This section, concerning Civilian Student Training Program transportation, was repealed by

Acts 2019, No. 910, § 5535, effective July 1, 2019. The section was derived from Acts 1995, No. 639, § 19; 1997, No. 821, § 23.

SUBCHAPTER 2 — NATIONAL GUARD GENERALLY

SECTION.

12-61-205. Discipline, organization, and training.

SECTION.

12-61-206. Assemblies, annual training, and other duties.

12-61-205. Discipline, organization, and training.

(a) The system of discipline and training of the National Guard shall conform generally to that of the United States Armed Forces as it is now or may hereafter be prescribed by the President of the United States and conform to the provisions of the laws of the United States, except as otherwise provided in this code or by the rules issued by the Governor.

(b) The forces of the Army National Guard and Air National Guard shall be organized, equipped, armed, disciplined, governed, administered, and trained as prescribed by the laws of the United States and by this code and the regulations and rules issued thereunder.

(c) Pursuant to subsection (b) of this section, the Governor is authorized to organize, reorganize, or disband any unit, headquarters, or staff therein, to increase or decrease the number of commissioned officers, warrant officers and noncommissioned officers of any grade therein, and to increase or decrease the strength of the organized militia. However, no organization of the Army National Guard and Air National Guard, the members of which shall be entitled to and shall have received compensation under the provisions of the National Defense Act of 1916, as amended, shall be disbanded without the consent of the President of the United States, nor without such consent shall the commissioned or enlisted strength of any organization be reduced below the minimum that shall be prescribed therefor by the President of the United States.

History. Acts 1969, No. 50, §§ 24, 39; substituted “rules” for “regulations” in (a); A.S.A. 1947, §§ 11-204, 11-407; Acts 2019, and inserted “and rules” following “regulations” in (b). No. 315, § 928.

Amendments. The 2019 amendment

12-61-206. Assemblies, annual training, and other duties.

(a) Members and units of the National Guard shall assemble for drill or other equivalent training, instruction, or duties during each year and shall participate in field training, encampments, maneuvers, schools, conferences, or other similar duties each year as may be prescribed by the laws of the United States and of the state and the regulations and rules issued thereunder. However, no assembly of any such unit of the organized militia shall be ordered in time of peace for any day during which a general election shall be held, except in case of riot, invasion, or insurrection or imminent danger thereof.

(b) Within the amount appropriated therefor, the Adjutant General may prescribe and order the number of days, if any, for assemblies or drills or other equivalent training, instruction, or duties to be performed annually by members of the National Guard for which they may receive pay and allowances.

(c) Within the amount appropriated therefor, the Adjutant General may prescribe and order the number of days, if any, of field training, encampments, maneuvers, schools, conferences, or other similar duties to be performed by members of the National Guard for which they may receive pay and allowances.

(d) Members of the National Guard may be ordered by the Governor or under his or her authority to perform special duty, including duty in a judicial proceeding or course of justice conducted pursuant to § 12-64-101 et seq., or as a member of or in any other capacity with any military board or as an investigating officer or as a medical examiner or as a judge advocate in the performance of legal services in any suit, action, or proceeding pertaining to the military.

History. Acts 1969, No. 50, § 25; A.S.A. 1947, § 11-205; Acts 2019, No. 315, § 929. inserted “and rules” following “regulations” in the first sentence of (a).
Amendments. The 2019 amendment

SUBCHAPTER 3 — STATE DEFENSE FORCE

SECTION.

12-61-302. Organization and government.

SECTION.

12-61-305. Assignments.

12-61-302. Organization and government.

(a) The Arkansas State Defense Force shall be organized and governed by the terms of this code and by such rules as may be promulgated from time to time.

(b) Except when otherwise provided, all provisions of this code and rules in respect to the Arkansas National Guard shall apply to the Arkansas State Defense Force.

History. Acts 1969, No. 50, § 41; A.S.A. 1947, § 11-502; Acts 2019, No. 315, § 930. deleted “and regulations” following “rules” in (a); and substituted “rules” for “regulations” in (b).
Amendments. The 2019 amendment

12-61-305. Assignments.

All officers and enlisted personnel of the organized militia not otherwise assigned may be assigned to the Arkansas State Defense Force for such time and in such manner as prescribed by rules promulgated by the Governor as he or she deems necessary.

History. Acts 1969, No. 50, § 44; 1985, No. 670, § 6; A.S.A. 1947, § 11-505; Acts 2019, No. 315, § 931. **Amendments.** The 2019 amendment substituted “rules” for “regulations”.

CHAPTER 62

MILITARY PERSONNEL

SUBCHAPTER.

1. OFFICERS.
3. PAY AND ALLOWANCES.
4. PRIVILEGES.
5. ARKANSAS NATIONAL GUARD STUDENT LOAN REPAYMENT PROGRAM OF 1995.
6. ARKANSAS NATIONAL GUARD TUITION INCENTIVE PROGRAM. [REPEALED.]
7. ARKANSAS SOLDIERS' AND AIRMEN'S CIVIL RELIEF ACT.

SUBCHAPTER 1 — OFFICERS

SECTION.

12-62-102. Prerequisites to appointment — Disqualifications.

SECTION.

12-62-103. Assignment and transfer.
 12-62-104. Removal — Definition.

Effective Dates. Acts 2019, No. 148, § 2: Feb. 14, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the removal of officers who are substandard in performance of duty or in conduct, deficient in character, below medical standards for retention, or unsuited for military service is of paramount importance to the good order and discipline of the Arkansas National Guard and security of the State of Arkansas. There-

fore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

12-62-102. Prerequisites to appointment — Disqualifications.

(a) No person shall be appointed or promoted as a commissioned officer in the National Guard unless he or she shall have passed such examination as to his or her physical, moral, and professional qualifications as may be prescribed by the United States and by this code and the regulations and rules issued thereunder.

(b) No person shall be recognized as a commissioned officer of the National Guard and no appointment as such shall become effective until he or she shall have taken and subscribed an oath of office.

(c) Any person who has been dismissed or dishonorably discharged from the National Guard of this or any other state or from the United States Armed Forces and has not been restored to duty or any commissioned officer who was discharged from the National Guard as a result of the findings of an efficiency examining board or whose resignation from the National Guard was accepted by the Governor at a time when such officer was under arrest or under charges for the commission of an offense punishable by a court-martial shall not be eligible for appointment as a commissioned officer in any force of the National Guard.

History. Acts 1969, No. 50, § 30; A.S.A. 1947, § 11-302; Acts 2019, No. 315, § 932.

inserted “and rules” following “regulations” in (a).

Amendments. The 2019 amendment

12-62-103. Assignment and transfer.

Commissioned officers and warrant officers may be assigned, reassigned, transferred, or detailed to and from units within the National Guard as prescribed by the laws of the United States and this code and the regulations and rules issued thereunder.

History. Acts 1969, No. 50, § 32; A.S.A. 1947, § 11-304; Acts 2019, No. 315, § 933.

inserted “and rules” following “regulations”.

Amendments. The 2019 amendment

12-62-104. Removal — Definition.

(a) The Adjutant General of the State of Arkansas shall have the power to remove an officer from the ranks of the Arkansas National Guard if the officer:

- (1) Is refused federal recognition in the grade and branch to which he or she has applied;
- (2) Has had federal recognition withdrawn in the grade and branch in which he or she was formerly recognized; or
- (3) Has had state recognition withdrawn in the grade and branch in which he or she was formerly recognized.

(b) The Adjutant General shall adopt reasonable and necessary rules to accomplish this purpose, including without limitation a rule outlining the process required to have an officer's state recognition withdrawn as provided under subdivision (a)(3) of this section that is similar to the process for the withdrawal of federal recognition under 32 U.S.C. § 323, as it existed on January 1, 2019.

(c) As used in this section, "state recognition withdrawn" means the demotion of an officer of the Arkansas National Guard when it is determined that he or she is not qualified to be an officer in his or her current grade and branch based on a finding by a board of selection officers that the officer is:

- (1) Substandard in the performance of his or her duty or in conduct;
- (2) Deficient in character;
- (3) Below medical standards for retention; or
- (4) Unsited for military service.

History. Acts 1989, No. 666, § 1; 2019, No. 148, § 1; 2019, No. 315, § 934.

The 2019 amendment by No. 315 substituted "rules" for "regulations" in (b).

Amendments. The 2019 amendment by No. 148 rewrote (a) and (b); and added (c).

SUBCHAPTER 3 — PAY AND ALLOWANCES

SECTION.

12-62-301. Pay generally.

12-62-302. Service on boards, commissions, and courts.

SECTION.

12-62-309. State-sponsored life insurance program — Definition.

Effective Dates. Acts 2019, No. 211, § 23: Feb. 26, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the removal of officers who are substandard in performance of duty or in conduct, deficient in character, or unsited for military service is of paramount importance to the good order and discipline of the Arkansas National Guard and

security of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

12-62-301. Pay generally.

Each officer, warrant officer, and enlisted person ordered for duty by the Governor or under his or her authority by the commanding general of the National Guard shall be paid by the state for every day actually on duty the same basic pay as officers and enlisted personnel of the United States Armed Forces of equal grade, rating, and length of service and such allowances as may be authorized in rules issued in accordance with the provisions of this code or at a flat daily rate of forty dollars (\$40.00) for each day of twenty-four (24) hours or less actually spent on active duty, whichever is greater. However, officers and enlisted personnel shall not receive from the state the pay and allowances provided by this section when ordered on duty thereunder in compliance with instructions from the federal government for services for which they are to receive pay and allowances from federal funds.

History. Acts 1969, No. 50, § 184; 1981, No. 407, § 1; A.S.A. 1947, § 11-901; Acts 2019, No. 315, § 935.

Amendments. The 2019 amendment substituted “rules” for “regulations” in the first sentence.

12-62-302. Service on boards, commissions, and courts.

(a) Members of boards and commissions created by this code and all military personnel, detailed to serve on any board or commission ordered by the Governor, or under his or her authority by the commanding general of the National Guard, or on any court of inquiry, court-martial, or summary court, ordered by proper authority in pursuance of any provision of this code, shall be paid for each day actually employed in such board, commission, or court, or engaged in the business thereof, or in traveling to and from the same, and mileage necessarily traveled in going to and returning from such duty shall be allowed.

(b) The pay shall be the same as for officers and enlisted personnel of the United States Armed Forces of equal grade, rating, and length of service.

(c) Mileage payment shall be allowed for going and returning to serve any process or mandate of a military court, the distance to be computed from the place where it is served to the place where it is returnable.

History. Acts 1969, No. 50, § 186; 1981, No. 407, § 2; A.S.A. 1947, § 11-903; Acts 2019, No. 211, § 3.

Amendments. The 2019 amendment deleted “or at a flat daily rate of forty

dollars (\$40.00) for each day of twenty-four (24) hours or less actually spent on active duty, whichever is greater” following “service” in (b).

12-62-309. State-sponsored life insurance program — Definition.

(a) As used in this section, “state-sponsored life insurance program” means life insurance exclusively offered to the members of the Arkansas National Guard by the National Guard Association of Arkansas.

(b) The Adjutant General is the official sponsor of the Arkansas National Guard state-sponsored life insurance program and shall:

(1) Facilitate all efforts to make the state-sponsored life insurance program available to the members of the Arkansas National Guard;

(2) Provide an opportunity for members of the Arkansas National Guard to purchase state-sponsored life insurance program products;

(3) Allow state-sponsored life insurance program representatives to provide members of the Arkansas National Guard with state-sponsored life insurance program briefings during annual training and drill weekends to educate members of the Arkansas National Guard on the benefits of the state-sponsored life insurance program; and

(4) Allow, facilitate, and coordinate requested allotments with the appropriate United States Property and Fiscal Office for purposes of the state-sponsored life insurance program.

History. Acts 2019, No. 922, § 1.

SUBCHAPTER 4 — PRIVILEGES**SECTION.**

12-62-414. Extensions for renewing cer-

tain documents — Paying certain fees.

12-62-414. Extensions for renewing certain documents — Paying certain fees.

(a) A member of the National Guard or reserve component of the United States Armed Forces who is a resident of this state and who is ordered to active duty or state active duty to a duty station located outside of this state shall be allowed an extension for:

(1) Renewing a state:

(A) License;

(B) Permit;

(C) Registration;

(D) Credential; or

(E) Certificate; and

(2) Paying state:

(A) Taxes;

(B) Fees;

(C) Assessments; or

(D) Tuition.

(b) The extension shall be allowed without penalty or assessment of a late fee.

(c) The extension shall be effective for:

(1) The period that the service member is serving on active duty or state active duty at a duty station located outside of this state; and

(2) A period of at least ninety (90) days and not more than one (1) year after the service member is released from active duty or state active duty.

(d)(1) Each department, division, office, board, commission, and institution of this state, including state-supported institutions of higher education, shall promulgate rules to establish the length of the extension.

(2) The extension established by rule shall be within the limits provided by this section.

History. Acts 2003, No. 996, § 1; 2019, No. 315, § 936; 2019, No. 462, §§ 11, 12.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (d)(1); and substituted “rule” for “regulation” in (d)(2).

The 2019 amendment by No. 462 inserted “or state active duty” in the introductory language of (a) and in (c)(1) and (c)(2).

SUBCHAPTER 5 — ARKANSAS NATIONAL GUARD STUDENT LOAN REPAYMENT PROGRAM OF 1995

SECTION.

12-62-502. Definitions.

12-62-504. Application process.

SECTION.

12-62-505. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-62-502. Definitions.

As used in this subchapter:

(1) “Approved institution” means an Arkansas public or private postsecondary institution that is accredited or has achieved candidacy status from the Higher Learning Commission or is a technical institute or comprehensive lifelong learning center under the supervision of the Division of Higher Education;

(2) “Eligible member” means both nonprior service and prior service persons who are otherwise qualified, whether or not currently serving,

who are enlisting or extending their enlistment in the Arkansas National Guard for a period of at least six (6) years;

(3) "High personnel readiness units" means those units with special manpower needs as designated by the Adjutant General pursuant to rule, based upon:

(A) The mobilization priority of the unit;

(B) The difficulty of attracting, qualifying, and enlisting new members;

(C) The ability to maintain acceptable strength levels within the unit; and

(D) Such other factors as the Adjutant General may deem appropriate; and

(4) "Qualified applicant" means an eligible member who:

(A) Has met all requirements for enlistment or reenlistment and has enlisted in a position vacancy in a unit designated as a high personnel readiness unit;

(B) Has a sufficient score to be rated as category IIIA or higher based upon scores on standard military tests (score of 50 or higher on the Armed Services Vocational Aptitude Battery or equivalent);

(C) Meets and continues to meet Good Soldier or Good Airman criteria as set by the Adjutant General;

(D) Is a secondary school graduate or is expected to graduate from secondary school within two (2) years;

(E) Is not currently pursuing a postgraduate degree;

(F) Is not a permanent civilian technician or member of the active National Guard or Reserve, or extending or enlisting for the purpose of becoming either; and

(G) Meets the current scholastic criteria of and is currently approved to receive a student loan under any state or federal program approved by the Division of Higher Education, and is, or will be upon approval of such loan, enrolled as a full-time student in good standing at an approved institution.

History. Acts 1995, No. 187, § 2; 1995, No. 265, § 2; 2019, No. 315, § 937; 2019, No. 910, §§ 2228, 2229.

Amendments. The 2019 amendment by No. 315 substituted "rule" for "regulation" in the introductory language of (3).

The 2019 amendment by No. 910 substituted "Division of Higher Education" for "Department of Workforce Education" in (1); and substituted "Division of Higher Education" for "Department of Higher Education" in (4)(G).

12-62-504. Application process.

(a)(1) Qualified applicants for the Arkansas National Guard Student Loan Repayment Program may apply by obtaining an application form from, and signed by, his or her unit commander.

(2) The application shall include as an attachment a certification by an appropriate officer of the approved institution verifying that the applicant has been accepted or remains in good standing as a full-time student for the school year in which the loan repayment is sought, and

must include certification from a qualified lending institution that a loan has been approved and is not in default.

(b)(1)(A) Qualified applicants must obtain an additional certification from the approved institution verifying his or her continued enrollment as a full-time student in good standing in order to receive the second or any subsequent semester award.

(B) Such certification shall be presented to the unit commander within thirty (30) days of the beginning of the semester for which a loan repayment is sought.

(2) Verification from a qualified lending institution that an approved loan is in place and not in default must accompany each subsequent certification.

(c)(1) It shall be the responsibility of the unit to forward completed applications, including recertifications from an approved institution and verifications from the lender, to the Arkansas National Guard Incentive Officer for processing and payment.

(2) Payment shall be made directly to the approved institution, on behalf of and for the benefit of the qualified applicant, in a manner as may be established by rule of the Adjutant General.

History. Acts 1995, No. 187, § 4; 1995, substituted “rule” for “regulation” in No. 265, § 4; 2019, No. 315, § 938. (c)(2).

Amendments. The 2019 amendment

12-62-505. Rules.

(a)(1) The Adjutant General shall establish, implement, and enforce such administrative rules as are necessary for implementation of the Arkansas National Guard Student Loan Repayment Program.

(2) The rules shall include criteria for selection from among applicants in those circumstances in which the number of applicants exceeds appropriated funding for the calendar year.

(b) In establishing rules relating to academic qualification, certification, recertification, and payment, the Adjutant General shall obtain the advice of the Division of Higher Education.

(c) To the extent possible, the division shall include the program among other existing financial aid programs and shall monitor the program and enforce policies, as necessary, to conform with division rules.

History. Acts 1995, No. 187, § 5; 1995, No. 265, § 5; 2019, No. 315, § 939; 2019, No. 910, § 2230.

Amendments. The 2019 amendment by No. 315 substituted “Rules” for “Regulations” in the section heading, and in (a)(2), (b), and (c); and deleted “and regulations” following “rules” in (a)(1).

The 2019 amendment by No. 910 substituted “Division of Higher Education” for “Department of Higher Education” in (b); and substituted “division” for “department” twice in (c).

SUBCHAPTER 6 — ARKANSAS NATIONAL GUARD TUITION INCENTIVE PROGRAM

SECTION.

12-62-601 — 12-62-605. [Repealed.]

A.C.R.C. Notes. For current law, see § 6-60-214.

Acts 2017, No. 471, § 4, provided: “An eligible service member who is enrolled in an approved institution that is a private postsecondary institution and receiving a

tuition incentive under the Arkansas National Guard Tuition Incentive Program as of the effective date of this act [March 13, 2017] shall continue to receive the tuition incentive under § 12-62-601 et seq., as it existed on January 1, 2017.”

12-62-601 — 12-62-605. [Repealed.]

Publisher’s Notes. This subchapter, concerning the Arkansas National Guard Tuition Incentive Program, was repealed by Acts 2017, No. 471, § 3. The subchapter was derived from the following sources:

12-62-601. Acts 1995, No. 186, § 1; 1995, No. 346, § 1.

12-62-602. Acts 1995, No. 186, § 2;

1995, No. 346, § 2; 2009, No. 214, § 1; 2013, No. 1012, § 1; 2015, No. 865, § 13.

12-62-603. Acts 1995, No. 186, § 3; 1995, No. 346, § 3; 2009, No. 214, § 2.

12-62-604. Acts 1995, No. 186, § 4; 1995, No. 346, § 4.

12-62-605. Acts 1995, No. 186, § 5; 1995, No. 346, § 5; 2009, No. 214, § 3.

SUBCHAPTER 7 — ARKANSAS SOLDIERS’ AND AIRMEN’S CIVIL RELIEF ACT

SECTION.

12-62-704. Applicability.

12-62-704. Applicability.

This subchapter and the benefits of this subchapter apply to and may be claimed by a soldier, airman, or the spouse of a soldier or airman of the Arkansas National Guard who meets one (1) of the following requirements:

(1) The soldier or airman is ordered into the active military service of the State of Arkansas by the Governor under state law for a period of more than one hundred eighty (180) continuous days;

(2) The soldier or airman is ordered into the active military service of the State of Arkansas by the Governor under the provisions of Title 32, United States Code, for a period of more than one hundred eighty (180) continuous days; or

(3) The soldier or airman is ordered into active duty by the Governor under state law or under Title 32 of the United States Code for any period of time as a direct result of the execution of an Emergency Management Assistance Compact or proclamation by the Governor.

History. Acts 2003, No. 1003, § 4; 2019, No. 462, § 13.

Amendments. The 2019 amendment added (3).

CHAPTER 63
MILITARY PROPERTY

SUBCHAPTER.

- 2. POLICING AND REGULATION.
- 3. ARMORIES, LANDING FIELDS, AND HANGARS.
- 4. CAMP JOSEPH T. ROBINSON.
- 5. MILITARY SERVICE CLUBS.

SUBCHAPTER 2 — POLICING AND REGULATION

SECTION.

12-63-207. Motor vehicle rules generally.
12-63-208. Violations of motor vehicle rules.

SECTION.

12-63-209. Criminal trespass upon a military reservation — Penalty.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-63-207. Motor vehicle rules generally.

(a) The Adjutant General is authorized and empowered to promulgate rules, and to amend or change them from time to time as he or she shall deem necessary, providing for the operation and parking of motor vehicles upon the grounds, streets, drives, and alleys on a military reservation, including, but not limited to, the following:

- (1) Limiting the rate of speed;
- (2) Assigning parking spaces and designating parking areas and their use or uses;
- (3) Prohibiting parking as he or she deems necessary;
- (4) Removing motor vehicles parked in violation of the rules at the expense of the violator who shall pay the expense before the motor vehicle is released;
- (5) Instituting a system of motor vehicle registration for the identification and regulation of motor vehicles regularly using the military reservation premises; and

(6) Instituting a process for administrative adjudication for the violation of a military reservation rule promulgated under this section on a military reservation, which shall include the determination of:

(A) A reasonable civil penalty;

(B) The enforcement process for the collection of the civil penalty; and

(C) A reasonable sanction for noncompliance.

(b) Rules, together with any amendments thereto, which may from time to time be adopted by the Adjutant General for the regulation of operation and parking of motor vehicles shall be filed with the Secretary of State and shall be printed with copies thereof available at convenient locations at the military reservation or at any separate portion thereof.

(c) Speed limits shall be posted at reasonable intervals, and traffic and parking directions and prohibitions shall be indicated by signs.

(d) From and after the promulgation of the rules provided for in this section, it shall be unlawful for any person to operate or to park a motor vehicle in violation thereof.

History. Acts 1979, No. 895, §§ 4, 5; 1983, No. 852, §§ 4, 5; A.S.A. 1947, §§ 11-1815, 11-1816; Acts 2015, No. 682, § 1; 2019, No. 315, § 940.

Amendments. The 2019 amendment substituted “rules” for “regulations” in the

section heading; deleted “and regulations” following “rules” in the introductory language of (a), (a)(4), (b), and (d); and deleted “or regulation” following “rule” in (a)(6).

12-63-208. Violations of motor vehicle rules.

(a)(1) Persons violating rules promulgated under § 12-63-207 shall, at the option of the police officer, be charged under the military reservation’s system of charges or summoned to appear before any court of competent jurisdiction to be dealt with according to law.

(2) A person adversely affected by any administrative determination shall have a right to appeal to the appropriate district court where the matter shall be heard de novo.

(b) Notice placed on the motor vehicle shall be sufficient as a summons for the purpose of this subchapter.

History. Acts 1979, No. 895, § 4; 1983, No. 852, § 4; A.S.A. 1947, § 11-1815; Acts 2015, No. 682, § 2; 2019, No. 315, § 941.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (a)(1).

12-63-209. Criminal trespass upon a military reservation — Penalty.

(a) A person commits the offense of criminal trespass upon a military reservation if he or she purposefully, and without authority, enters upon or remains unlawfully upon any military reservation, military armory, or other military building or property owned, leased, licensed, operated, occupied, maintained, or under the control or management of the State

of Arkansas under the control and management of the Department of Military.

(b) Criminal trespass upon a military reservation or other military property is a Class A misdemeanor.

History. Acts 1979, No. 895, § 3; 1983, No. 852, § 3; A.S.A. 1947, § 11-1814; Acts 1995, No. 951, § 1; 1997, No. 1201, § 4; 2019, No. 910, § 5536.

Amendments. The 2019 amendment substituted “Department of the Military” for “State Military Department” in (a).

SUBCHAPTER 3 — ARMORIES, LANDING FIELDS, AND HANGARS

SECTION.

12-63-302. Rules for use.

12-63-304. Renting of currently used

readiness centers — Disposition of proceeds.

12-63-302. Rules for use.

(a) The Adjutant General shall issue rules governing the use of armories, landing fields, and hangars acquired under the provisions of this code.

(b) The Adjutant General is authorized to appoint one (1) or more persons at the location of each armory, landing field, or hangar, who shall have charge of such property and govern the use of it in accordance with the rules issued by the Adjutant General.

History. Acts 1969, No. 50, § 179; A.S.A. 1947, § 11-803; Acts 2019, No. 315, § 942.

substituted “Rules” for “Regulations” in the section heading; and deleted “and regulations” following “rules” in (a) and (b).

Amendments. The 2019 amendment

12-63-304. Renting of currently used readiness centers — Disposition of proceeds.

(a) The Adjutant General, acting for and on behalf of the Arkansas National Guard, shall issue rules concerning the rental and use of a National Guard readiness center or its facilities or portions thereof to any person, organization, firm, corporation, or governmental agency for any legal use for short periods of time, provided the renting of the readiness center or its facilities or portions thereof does not interfere with its use by the National Guard for training or other military purposes.

(b) All such rentals shall be in writing and shall contain appropriate clauses permitting immediate termination or cancellation of the rental agreement on order of the Adjutant General should the public interest or National Guard purposes necessitate the termination.

(c) A readiness center or its facilities or portions thereof shall not be rented for less than an amount sufficient to cover all expenses, including custodian fees, utility bills, janitor service, and any repairs occasioned by such use.

(d)(1) Readiness center funds are those funds derived from the use of the facilities by an individual, agency, or organization other than the official users of the facilities by National Guard units quartered therein. Social meetings for members of a unit and their families, sponsored by the unit, are considered official.

(2) A full and complete record of funds received and disbursed shall be maintained by the senior officer of the official using the unit and shall be subject to audit as may be required by the Adjutant General.

(3) The Adjutant General shall publish rules governing the expenditure of such rental funds to ensure that the state expenses are recovered from the rental funds and that rental funds are used for Arkansas National Guard morale, welfare, and recreation events.

History. Acts 1969, No. 50, § 180; 1979, No. 422, § 1; A.S.A. 1947, § 11-804; Acts 2013, No. 1013, § 1; 2019, No. 315, §§ 943, 944.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (a) and (d)(3).

SUBCHAPTER 4 — CAMP JOSEPH T. ROBINSON

SECTION.	SECTION.
12-63-402. Adjutant General as custodian.	12-63-406. Canteen — Inventory and sales — Tax exemption.
12-63-405. Canteens and exchanges — Adjutant General’s powers and duties.	12-63-407. Canteens — Camp Robinson and Fort Chaffee.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-63-402. Adjutant General as custodian.

(a) The Adjutant General of the State of Arkansas is the custodian of all military property and military reservations located within the State of Arkansas, and which are owned, leased, licensed, operated, occupied, or maintained by the State of Arkansas for the purpose of training the active or reserve military forces of the United States or any of any state.

(b)(1) The Adjutant General is not the custodian of any military property or military reservation which is reserved to the exclusive

legislative jurisdiction and sovereignty of the United States or which is reserved to exclusive legislative authority of the United States Secretary of the Army, United States Secretary of the Navy, or United States Secretary of the Air Force, pursuant to the Constitution and laws of the United States.

(2) Specifically, the Adjutant General is not the custodian of Little Rock Air Force Base and Pine Bluff Arsenal, except such parts thereof that are owned, leased, licensed, operated, occupied, or maintained pursuant to a deed, lease, license, or agreement for the exclusive control by the Adjutant General and units of the Army National Guard or Air National Guard, in accordance with the respective agreements between the Adjutant General and the United States Secretary of the Army or the United States Secretary of the Air Force.

(c)(1) The Adjutant General shall not enter into or accept any contract, deed, license, lease, permit, memorandum of understanding, memorandum of agreement, obligation, gift, or donation of any real property whereby the State of Arkansas shall incur or undertake to incur financial liability for or assume financial liability with, or for, or on behalf of an agency or instrumentality of the United States, for such agency's or instrumentality's past or continuing violation or violations of:

(A) The environmental protection laws of the State of Arkansas or of the United States;

(B) The laws, regulations, rules, or orders of the Division of Environmental Quality or the United States Environmental Protection Agency; or

(C) Any other law, regulation, rule, or order of any agency and instrumentality of the State of Arkansas or of the United States which is charged with the responsibility of enforcing the environmental law.

(2) This prohibition shall not be applicable if:

(A) The Adjutant General shall be authorized by federal law or regulation to accept such responsibility for remediation of past or continuing violations and the Adjutant General is provided, appropriated, allocated, or apportioned adequate funds from the United States required to remediate such violations;

(B) The Attorney General, after conferring with the Director of the Division of Environmental Quality, shall advise the Governor in writing that the potential financial liability of the state for environmental remediation is de minimus, and if the Governor shall so approve and concur in the Attorney General's advice; or

(C) The laws of the United States prescribe and fix sole financial liability for such violation or violations upon an agency or instrumentality of the United States to the exclusion of the state.

History. Acts 1951, No. 121, § 2; 1955, No. 1164, § 120; 2019, No. 910, §§ 3027, No. 381, § 2; A.S.A. 1947, §§ 11-1802, 3028.
11-1804; Acts 1997, No. 1201, § 5; 1999,

Amendments. The 2019 amendment

substituted "Division of Environmental Quality" in (c)(1)(B) and "Quality" for "Arkansas Department of Environmental Quality" in (c)(2)(B).

12-63-405. Canteens and exchanges — Adjutant General's powers and duties.

(a) The Adjutant General shall have the authority:

(1) To hire and set the salaries or compensation of sufficient employees for the operation of canteens and exchanges;

(2) To enter into contracts or agreements with wholesalers, distributors, or suppliers of inventory items for stocking the canteens and exchanges;

(3) To prescribe a system of bookkeeping, accounting, and auditing procedures for the proper handling of funds derived from the operations of canteens and exchanges; and

(4) To prescribe rules governing the operation of the canteens and exchanges on military reservations and military properties.

(b) Employees of canteens and exchanges are not subject to the Uniform Classification and Compensation Act, § 21-5-201 et seq.

History. Acts 1977, No. 489, § 2; A.S.A. 1947, § 11-1806; Acts 1997, No. 1201, § 8; 2019, No. 315, § 945.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a)(4).

12-63-406. Canteen — Inventory and sales — Tax exemption.

(a) The Adjutant General, acting for and on behalf of the Arkansas National Guard, shall have authority to purchase normally regarded canteen inventory items, subject to the limitations prescribed in § 12-63-404.

(b) The sale of items shall be made only to:

(1) Active and retired members of the Army National Guard and Air National Guard;

(2) Active, retired, and reserve members of the United States Armed Forces;

(3) United States Department of Defense employees;

(4) Full-time employees of the Department of the Military;

(5) Students attending training programs at Camp Joseph T. Robinson or Fort Chaffee;

(6) Contractors and their employees performing work pursuant to a contract with the United States or the State of Arkansas on Camp Joseph T. Robinson or Fort Chaffee;

(7) Employees of tenant government agencies located on Camp Joseph T. Robinson or Fort Chaffee; and

(8) Dependents of the persons in subdivisions (b)(1)-(7) of this section who hold identification cards evidencing their status, as may be found acceptable to the Adjutant General.

(c) The items sold shall be exempt from the imposition of any taxes levied by the State of Arkansas or by any political subdivision thereof.

History. Acts 1977, No. 489, § 3; 1979, No. 362, § 1; 1983, No. 137, § 2; A.S.A. 1947, § 11-1807; Acts 1987, No. 781, § 1; 1995, No. 521, § 1; 1997, No. 1201, § 9; 2019, No. 910, § 5537.

Amendments. The 2019 amendment substituted "Department of the Military" for "State Military Department" in (b)(4).

12-63-407. Canteens — Camp Robinson and Fort Chaffee.

(a) The General Assembly finds that the Adjutant General is subject to conflicting laws of the State of Arkansas and regulations of the United States Department of the Army and the National Guard Bureau, requiring the Adjutant General to reconcile conflicting laws and regulations.

(b) The purpose of this section is to eliminate duplicated and conflicting laws, reconcile state law to United States Department of the Army, United States Department of the Air Force, and National Guard Bureau regulations, and to reduce operating expenses of the Camp Joseph T. Robinson and Fort Chaffee canteens.

(c) The Adjutant General is authorized to operate the Camp Joseph T. Robinson and Fort Chaffee canteens in accordance with the regulations of the United States Department of the Army, United States Department of the Air Force, and the National Guard Bureau governing morale, welfare, and recreation fund activities as he or she may determine to be applicable.

(d)(1) Nothing in this section shall be construed to eliminate the restrictions on the types of goods or services the Camp Joseph T. Robinson and Fort Chaffee canteens may offer for sale, trade, exchange, market, or vend.

(2) This section shall not be construed to expand or broaden the authority of the Camp Joseph T. Robinson and Fort Chaffee canteens to sell goods and services to any person other than to:

(A) Active, retired, and reserve members of the armed services;

(B) Full-time employees of the Department of the Military and the United States Department of Defense;

(C) Employees of contractors performing contracts or services on either Camp Joseph T. Robinson or Fort Chaffee; or

(D) Employees of other government agencies, students, and other tenants of either Camp Joseph T. Robinson or Fort Chaffee.

(e)(1) The Adjutant General shall cause an external annual audit of the Camp Joseph T. Robinson and Fort Chaffee canteens.

(2) The audit shall be conducted by a certified public accountant.

(f) The Adjutant General shall, within ten (10) days of receipt, submit a copy of the annual audits and any other audits of the Camp Joseph T. Robinson and Fort Chaffee canteens conducted in accordance with regulations of the United States Department of the Army, the United States Department of the Air Force, and the National Guard Bureau to Arkansas Legislative Audit.

History. Acts 1991, No. 732, §§ 1-4, 6, substituted “Department of the Military and the United States Department of Defense” for “Arkansas Military Department and Department of Defense” in (d)(2)(B).
 7; 1997, No. 1201, § 10; 2019, No. 910, § 5538.

Amendments. The 2019 amendment

SUBCHAPTER 5 — MILITARY SERVICE CLUBS

SECTION.

12-63-501. Ebbing Air National Guard Field.

12-63-501. Ebbing Air National Guard Field.

(a) The Adjutant General is authorized to establish and operate a military service club at Ebbing Air National Guard Field.

(b)(1) Any military service club established at Ebbing Air National Guard Field shall be operated at no cost to the State of Arkansas and shall be generally operated in accordance with applicable military regulations of the United States Air Force pertaining to military service clubs, and in accordance with the orders, directions, and general supervision of the Adjutant General.

(2) The laws of the state and the rules of the Alcoholic Beverage Control Division shall apply to the operation of the military service club.

(3) To the extent there is a conflict between applicable regulations of the United States Air Force pertaining to military service clubs and the laws and regulations of the state, state laws and regulations shall control.

(c) Any military service club established at Ebbing Air National Guard Field shall obtain all requisite state and local permits required for its operation and shall pay any taxes due from its operation to the state and local governments that apply to its operation.

History. Acts 1993, No. 1074, § 1; substituted “rules” for “regulations” in 2019, No. 315, § 946. (b)(2).

Amendments. The 2019 amendment

CHAPTER 64 MILITARY JUSTICE

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. APPREHENSION AND RESTRAINT.
3. NONJUDICIAL PUNISHMENT.
4. COURTS-MARTIAL.
5. PROCEDURE.
6. SENTENCING.
7. REVIEW OF COURTS-MARTIAL.
8. PUNITIVE ARTICLES.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

12-64-102. Jurisdiction to try certain personnel.

12-64-105. Oaths — Affidavits.

12-64-107. Code to be explained.

SECTION.

12-64-110. Appropriations — Department of the Military Fund Account-Military Justice Fund.

Effective Dates. Acts 2019, No. 211, § 23: Feb. 26, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the removal of officers who are substandard in performance of duty or in conduct, deficient in character, or unsuited for military service is of paramount importance to the good order and discipline of the Arkansas National Guard and security of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-64-102. Jurisdiction to try certain personnel.

(a) Jurisdiction of courts-martial shall be coextensive with the jurisdiction provided for similar courts of the United States Army and United States Air Force while accounting for the differences in the types of duty status of members of the organized militia.

(b)(1) A person discharged from the organized militia who is later charged with having fraudulently obtained his or her discharge is subject to trial by court-martial under this code.

(2) A person convicted under subdivision (b)(1) of this section is subject to trial by court-martial for all offenses under this code committed before the fraudulent discharge.

(c) No person who has deserted from the organized militia may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service.

History. Acts 1969, No. 50, § 48; A.S.A. 1947, § 11-603; Acts 2015, No. 1003, § 4; 2019, No. 211, § 4.

added “while accounting for the differences in the types of duty status of members of the organized militia” in (a).

Amendments. The 2019 amendment

12-64-105. Oaths — Affidavits.

(a) The following persons of the organized militia may administer oaths for those purposes of military administration, including military justice, and affidavits may be taken for those purposes before those persons who shall have the general powers of a notary public:

- (1) The State Judge Advocate and all assistant state judge advocates;
- (2) All summary courts-martial;
- (3) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;
- (4) All legal officers;
- (5) The president, law officer, trial counsel, and assistant trial counsel for all general and special courts-martial;
- (6) The president and the counsel for the court of any court of inquiry;
- (7) All officers designated to take a disposition;
- (8) All persons detailed to conduct an investigation; and
- (9) All other persons designated by rules of the Governor.

(b) The signature without seal of any such person, together with the title of his or her office, is prima facie evidence of this authority.

History. Acts 1969, No. 50, § 164; A.S.A. 1947, § 11-675; Acts 2019, No. 315, § 947.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a)(9).

12-64-107. Code to be explained.

(a)(1) Sections 12-60-103, 12-64-102, 12-64-107, 12-64-109, 12-64-201 — 12-64-203, 12-64-205 — 12-64-207, 12-64-301, 12-64-302, 12-64-407, 12-64-410, 12-64-509, 12-64-601, and 12-64-801 — 12-64-848 of this code shall be carefully explained to every enlisted member at the time of his or her enlistment or transfer or induction into, or at the time of his or her order to duty in or with any of the forces of the organized militia or within thirty (30) days thereafter.

(2) They shall also be explained annually to each unit of the organized militia.

(b) A complete text of this code and of the rules prescribed by the Governor thereunder shall be made available to any member of the organized militia, upon his or her request, for his or her personal examination.

History. Acts 1969, No. 50, § 165; A.S.A. 1947, § 11-676; Acts 2015, No. 1003, § 7; 2019, No. 315, § 948.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (b).

12-64-110. Appropriations — Department of the Military Fund Account-Military Justice Fund.

(a) There shall be appropriated annually, for the Department of the Military, the sum of twenty thousand dollars (\$20,000) for the State Judge Advocate to pay for the administration of military justice.

(b) For the foregoing purposes, there is created in the State Treasury a fund to be designated the “Department of the Military Fund Account-Military Justice Fund”, from which expenses of military justice shall be paid in the amounts and manner prescribed by law.

History. Acts 1969, No. 50, § 170; A.S.A. 1947, § 11-681; Acts 2015, No. 1003, § 9; 2019, No. 910, § 5539.

Amendments. The 2019 amendment substituted “Department of the Military” for “State Military Department” in the section heading and in (b); substituted “Department of the Military” for “military department” in (a); and made stylistic changes.

SUBCHAPTER 2 — APPREHENSION AND RESTRAINT

SECTION.

12-64-201. Apprehension generally.
12-64-203. Restraint.

SECTION.

12-64-207. Delivery of offenders to civil authorities.

12-64-201. Apprehension generally.

(a) “Apprehension” is the taking of a person into custody.

(b) Any person authorized by this code or by rules issued pursuant thereto to apprehend persons subject to this code, any marshal of a court-martial appointed pursuant to the provisions of this code, and any peace officer authorized to do so by law may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(c) Commissioned officers, warrant officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein.

History. Acts 1969, No. 50, § 52; A.S.A. 1947, § 11-607; Acts 2019, No. 315, § 949.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (b).

12-64-203. Restraint.

Subject to the orders or rules of the Adjutant General, commanders of the organized militia may restrain persons under their jurisdiction to the same extent as military commanders in service to the United States.

History. Acts 1969, No. 50, § 54; A.S.A. 1947, § 11-609; Acts 2015, No. 1003, § 10; 2019, No. 315, § 950.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (b).

12-64-207. Delivery of offenders to civil authorities.

(a) Under such rules as may be prescribed under this code, a person on active militia duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(b) When delivery hereunder is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender, after having answered to the civil authorities for his or her offense, shall, upon the request of competent military authority, be returned to military custody for the completion of his or her sentence.

History. Acts 1969, No. 50, § 58; A.S.A. 1947, § 11-613; Acts 2019, No. 315, § 951. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a).

SUBCHAPTER 3 — NONJUDICIAL PUNISHMENT**SECTION.**

12-64-301. Nonjudicial punishment generally.

12-64-301. Nonjudicial punishment generally.

(a) Under such rules as the Governor may prescribe, a company grade commanding officer may, in addition to or in lieu of admonition or reprimand, impose not more than two (2) of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(1) Upon officers of his or her command:

(A) Withholding of privileges for not more than two (2) consecutive weeks;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than two (2) consecutive weeks; or

(C)(i) A fine or a forfeiture in an amount that does not exceed ten (10) days of the officer’s base pay.

(ii) The payment or collection of the fine or the withholding of the forfeiture under this subdivision (a)(1)(C) shall not exceed an amount equal to five (5) days of base pay during any calendar month; or

(2) Upon other military personnel of his or her command:

(A) Withholding of privileges for not more than two (2) consecutive weeks;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than two (2) consecutive weeks;

(C) Extra duties for not more than two (2) consecutive weeks and not to exceed two (2) hours per day, holidays included;

(D) Reduction to next inferior grade if the grade from which demoted was established by the command or an equivalent or lower command;

(E) If imposed upon a person attached to or embarked in a vessel, confinement for not more than seven (7) consecutive days; or

(F)(i) A fine or a forfeiture in an amount that does not exceed ten (10) days of the soldier's or airman's base pay.

(ii) The payment or collection of the fine or the withholding of the forfeiture under this subdivision (a)(2)(F) shall not exceed an amount equal to five (5) days of base pay during any calendar month.

(b) Under such rules as the Governor may prescribe, a field grade commanding officer may, in addition to or in lieu of admonition or reprimand, impose not more than two (2) of the following disciplinary punishments for a minor offense without the intervention of a court-martial:

(1) Upon officers of his or her command:

(A) Withholding of privileges for not more than two (2) consecutive weeks;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than two (2) consecutive weeks; or

(C)(i) A fine or a forfeiture in an amount that does not exceed thirty (30) days of the officer's base pay.

(ii) The payment or collection of the fine or the withholding of the forfeiture under this subdivision (b)(1)(C) shall not exceed an amount equal to fifteen (15) days of base pay during any calendar month; or

(2) Upon other military personnel of his or her command:

(A) Withholding of privileges for not more than two (2) consecutive weeks;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than two (2) consecutive weeks;

(C) Extra duties for not more than two (2) consecutive weeks and not to exceed two (2) hours per day, holidays included;

(D) Reduction to next inferior grade if the grade from which demoted was established by the command or an equivalent or lower command;

(E) If imposed upon a person attached to or embarked in a vessel, confinement for not more than seven (7) consecutive days; or

(F)(i) A fine or a forfeiture in an amount that does not exceed thirty (30) days of the soldier's or airman's base pay.

(ii) The payment or collection of the fine or the withholding of the forfeiture under this subdivision (b)(2)(F) shall not exceed an amount equal to fifteen (15) days of base pay during any calendar month.

(c) However, except in the case where confinement has not been excluded as a punishment option, a member of the organized militia may not demand trial by court-martial in lieu of nonjudicial punishment.

(d) The Governor or commanding general may, by order or rule, place limitations on the powers granted by this subchapter with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.

(e) An officer in charge of a detached unit or section may, for minor offenses, impose on officers, soldiers, or airmen assigned to the unit of which he or she is in charge the punishment authorized to be imposed

by commanding officers as the Governor or commanding general may by order or rule specifically prescribe, as provided in subsections (a)-(d) of this section.

(f) Whenever nonjudicial punishment of forfeiture of an amount of base pay is imposed under this section, the forfeiture may apply to the base pay only and before any deduction, withholding, assignment, or forfeiture then due or becoming due on or after the date that punishment is imposed and to any pay accrued before that date.

History. Acts 1969, No. 50, § 59; 1981, No. 656, § 1; 1985, No. 670, § 7; A.S.A. 1947, § 11-614; Acts 2007, No. 47, § 5; 2015, No. 1003, § 13; 2019, No. 315, § 952.

Amendments. The 2019 amendment substituted “rules” for “regulations” and made similar changes in (a), the introductory language of (b), and in (d) and (e).

SUBCHAPTER 4 — COURTS-MARTIAL

- SECTION.
- 12-64-401. Classifications of courts-martial.
 - 12-64-402. Jurisdiction generally.
 - 12-64-403. General courts-martial punishments.
 - 12-64-404. Special courts-martial punishments.
 - 12-64-405. Summary courts-martial punishments.

- SECTION.
- 12-64-406. Convening courts-martial.
 - 12-64-407. Service on courts-martial.
 - 12-64-410. Trial and defense counsel.
 - 12-64-411. Court reporters — Interpreters.
 - 12-64-414. Absent and additional members.

Effective Dates. Acts 2019, No. 211, § 23: Feb. 26, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the removal of officers who are substandard in performance of duty or in conduct, deficient in character, or unsuited for military service is of paramount importance to the good order and discipline of the Arkansas National Guard and security of the State of Arkansas. Therefore, an emergency is declared to exist,

and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

12-64-401. Classifications of courts-martial.

There shall be three (3) kinds of courts-martial in each of the forces of the organized militia, namely:

- (1) General courts-martial, which shall consist of:
 - (A) A military judge and:
 - (i) Any number of members not less than eight (8); or

(ii) Six (6) or seven (7) members if after impanelment as required by subdivision (1)(A)(i) of this section there are challenges or excusals; or

(B) Only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing a court composed only of a military judge and the military judge approves;

(2) Special courts-martial, consisting of:

(A) A military judge and not less than four (4) members; or

(B) Only a military judge, if one has been detailed to the court, and the accused, under the conditions prescribed in subdivision (1)(B) of this section, so requests, or if referred by the convening authority under the United States Uniform Code of Military Justice, 10 U.S.C. § 801 et seq., subject to applicable limitations; and

(3) Summary courts-martial which shall consist of one (1) officer.

History. Acts 1969, No. 50, § 60; A.S.A. 1947, § 11-615; Acts 1987, No. 125, § 1; 2019, No. 211, § 5.

Amendments. The 2019 amendment substituted “not less than eight (8); or” for “not less than five (5)” in (1)(A)(i); added (1)(A)(ii); deleted former (2)(A) and redesignated (2)(B) and (C) as (2)(C) and (D),

respectively; substituted “not less than four (4); or” for “not less than three (3)” in (2)(A); and inserted “or if referred by the convening authority under the United States Uniform Code of Military Justice, 10 U.S.C. § 801 et seq., subject to applicable limitations” in (2)(B).

12-64-402. Jurisdiction generally.

(a) Each force of the organized militia has court-martial jurisdiction and powers over all persons subject to this code and shall follow the forms and procedures provided for similar courts of the United States Army and United States Air Force unless specifically enumerated in the Arkansas Code or by the Governor as the chief executive officer and Commander-in-Chief of the organized militia.

(b) The exercise of jurisdiction by one force over personnel of another force shall be in accordance with rules prescribed by the Governor.

(c) The jurisdiction of the military courts and boards established by this code shall be presumed and the burden of proof rests on any person seeking to oust those courts or boards of jurisdiction in any action or proceeding.

History. Acts 1969, No. 50, §§ 61, 173; A.S.A. 1947, §§ 11-616, 11-684; Acts 2015, No. 1003, § 14; 2019, No. 211, § 6; 2019, No. 315, § 953.

Amendments. The 2019 amendment by No. 211 added “unless specifically enu-

merated in the Arkansas Code or by the Governor as the chief executive officer and Commander-in-Chief of the organized militia” in (a).

The 2019 amendment by No. 315 substituted “rules” for “regulations” in (b).

12-64-403. General courts-martial punishments.

General courts-martial may, under such limitations as the Governor may prescribe, adjudge one (1) or more of the following punishments for each specification:

(1) Confinement with hard labor that shall not exceed the lowest sentence limitations established in the Manual for Courts-Martial, United States (2019 Edition), as it existed on January 1, 2019, for the offense or three hundred sixty-five (365) days;

(2) A fine or forfeiture in an amount that shall not exceed the lowest sentence limitations established in the Manual for Courts-Martial, United States (2019 Edition), as it existed on January 1, 2019, for the offense or three hundred sixty-five (365) days of the service member's base pay and allowances;

(3) Dishonorable discharge, bad conduct discharge, or dismissal;

(4) Reprimand; and

(5) Reduction of enlisted persons to a lower grade.

History. Acts 1969, No. 50, § 62; 1985, No. 670, § 8; A.S.A. 1947, § 11-617; Acts 2007, No. 47, § 8; 2015, No. 1003, § 14; 2019, No. 211, § 7.

Amendments. The 2019 amendment added "for each specification" in the introductory language; and rewrote (1) and (2).

12-64-404. Special courts-martial punishments.

A special court-martial may, under such limitations as the Governor may prescribe, adjudge one (1) or more of the following punishments:

(1) Confinement with hard labor that shall not exceed the lowest of the sentence limitations established in the Manual for Courts-Martial, United States (2019 Edition), as it existed on January 1, 2019, for the offense or one hundred eighty (180) days;

(2) A fine or forfeiture of pay and allowances in an amount that shall not exceed the lowest of the sentence limitations established in the Manual for Courts-Martial, United States (2019 Edition), as it existed on January 1, 2019, for the offense or one hundred eighty (180) days of the service member's base pay and allowances;

(3) Bad conduct discharge;

(4) Reprimand; and

(5) Reduction of enlisted persons to a lower grade.

History. Acts 1969, No. 50, § 63; 1985, No. 670, § 8; A.S.A. 1947, § 11-618; Acts 2007, No. 47, § 9; 2015, No. 1003, § 14; 2019, No. 211, § 8.

Amendments. The 2019 amendment substituted "that shall not exceed the lowest of the sentence limitations established in the Manual for Courts-Martial, United States (2019 Edition), as it existed on January 1, 2019, for the offense or one

hundred eighty (180) days" for "for not more than one hundred (100) days" in (1); and substituted "the lowest of the sentence limitations established in the Manual for Courts-Martial, United States (2019 Edition), as it existed on January 1, 2019, for the offense or one hundred eighty (180) days" for "one hundred (100) days" in (2).

12-64-405. Summary courts-martial punishments.

(a) Officers and warrant officers may not be tried by summary courts-martial.

(b) No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he or she objects thereto. If objection to a trial by summary court-martial is made by an accused, trial may be ordered by special or general court-martial as may be appropriate.

(c) A summary court-martial may, under such limitations as the Governor may prescribe, adjudge one (1) or more of the following punishments:

- (1) Confinement with hard labor not exceeding thirty (30) days;
- (2) A fine or forfeiture of pay and allowances in an amount that shall not exceed thirty (30) days of the service member's base pay and allowances;
- (3) Reprimand; and
- (4) Reduction of enlisted persons to a lower grade.

History. Acts 1969, No. 50, § 64; 1981, No. 656, § 2; 1985, No. 670, § 8; 1985 (1st Ex. Sess.), No. 9, § 1; A.S.A. 1947, § 11-619; Acts 2007, No. 47, § 10; 2015, No. 1003, § 14; 2019, No. 211, § 9.

Amendments. The 2019 amendment substituted "thirty (30) days" for "twenty-five (25) days" in (c)(1); and substituted "thirty (30) days" for "one hundred (100) days" in (c)(2).

12-64-406. Convening courts-martial.

(a) General, special, and summary courts-martial may be convened by the Governor or the commanding general of the organized militia.

(b) Special courts-martial may be convened by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command.

(c)(1) Summary courts-martial consisting of one (1) commissioned officer may be convened by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where the troops are on duty, or of a brigade, regiment, wing, group, detached battalion, squadron, company, or other detachment.

(2) The proceedings shall be informal.

History. Acts 1969, No. 50, §§ 68-70; A.S.A. 1947, §§ 11-623 - 11-625; Acts 2015, No. 1003, § 14; 2017, No. 250, § 29.

Amendments. The 2017 amendment, in (c)(1), inserted "consisting of one (1)

commissioned officer", substituted "troops are on" for "troops on", and deleted "may convene a summary court-marital consisting of one (1) commissioned officer" at the end.

12-64-407. Service on courts-martial.

(a) Any commissioned officer of or on duty with the organized militia is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Any warrant officer of or on duty with the organized militia is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c)(1)(A) Any enlisted member of the organized militia is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but he or she shall serve as a member of a court only if before the convening of the court the accused personally has requested in writing that enlisted members serve on it.

(B) After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third ($\frac{1}{3}$) of the total membership of the court unless eligible members cannot be obtained on account of physical conditions or military exigencies.

(C) If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement to be appended to the record stating why they could not be obtained.

(2) In this subsection the word, "unit" means any regularly organized body of the organized militia not larger than a company, a squadron, or a body corresponding to one of them.

(d) When it can be avoided, no person subject to this code shall be tried by a court-martial any member of which is junior to him or her in rank or grade.

(e) When convening a court-martial, the convening authority shall detail as members thereof such members as in his or her opinion are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament.

(f) No member is eligible to serve as a member of a general or special court-martial when he or she is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

History. Acts 1969, No. 50, § 71; A.S.A. 1947, § 11-626; 2019, No. 211, § 10.

deleted "who is not a member of the same unit as the accused" following "militia" in

Amendments. The 2019 amendment (c)(1)(A).

12-64-410. Trial and defense counsel.

(a) For each general and special court-martial, the authority convening the court shall detail trial counsel and defense counsel.

(b)(1) A person who has acted as investigating officer, military judge, or court member in any case shall not later act as trial counsel,

assistant trial counsel, or, unless expressly requested by the accused, defense counsel or assistant defense counsel in the same case.

(2) A person who has acted for the prosecution shall not act later in the same case for the defense.

(3) A person who has acted for the defense shall not act later in the same case for the prosecution.

(c)(1) If a victim of a crime committed subject to this code has a special victims' counsel provided at the expense of an appropriate government agency, the special victims' counsel shall be afforded all of the rights and privileges offered to counsel at similar courts of the United States Army and the United States Air Force.

(2) A judge advocate certified to practice before military courts is fully certified and qualified to serve as a special victims' counsel for the courts convened under this code, without regard to the judge advocate's licensing state.

(3) Any counsel furnished at the expense of the United States Government or the state government shall be qualified to serve as a special victims' counsel under this section and, if qualified, shall be exempt from any fees or additional requirements.

History. Acts 1969, No. 50, § 73; A.S.A. 1947, § 11-628; Acts 1987, No. 125, § 4; 2015, No. 1003, § 16; 2019, No. 211, § 11. **Amendments.** The 2019 amendment added (c).

12-64-411. Court reporters — Interpreters.

(a) Under such rules as the Governor may prescribe, the convening authority of a general or special court-martial shall detail or employ qualified court reporters who shall record the proceedings of and testimony taken before that court.

(b) Under like rules or regulations, the convening authority of a military court may detail or employ interpreters or other professional experts who shall interpret for and assist the court.

(c) Under like rules or regulations, the convening authority of a general or special court-martial shall detail a military court clerk who shall serve in that role in any appeal prescribed by § 12-64-714.

History. Acts 1969, No. 50, § 74; A.S.A. 1947, § 11-629; Acts 2015, No. 1003, § 17; 2019, No. 211, § 12; 2019, No. 315, § 954. **Amendments.** The 2019 amendment by No. 211 added (c). The 2019 amendment by No. 315 substituted "rules" for "regulations" in (a); and inserted "rules or" preceding "regulations" in (b).

12-64-414. Absent and additional members.

(a) No member of a general or special court-martial shall be absent or excused after the accused has been arraigned except for physical disability or as a result of a challenge or by order of the convening authority for good cause.

(b)(1) Whenever a general court-martial is reduced below six (6) members, the trial may not proceed unless the convening authority

details new members sufficient in number to provide not less than six (6) members.

(2) When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the military judge, the accused, and the counsel.

(c)(1) Whenever a special court-martial is reduced below four (4) members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than four (4) members.

(2) When the new members have been sworn, the trial shall proceed as if no evidence has previously been introduced unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel.

History. Acts 1969, No. 50, § 75; A.S.A. 1947, § 11-630; Acts 1987, No. 125, § 5; 2019, No. 211, § 13.

Amendments. The 2019 amendment

substituted “six (6) members” for “five (5) members” twice in (b)(1); and substituted “four (4) members” for “three (3) members” twice in (c)(1).

SUBCHAPTER 5 — PROCEDURE

SECTION.

12-64-501. Statutes of limitations.

12-64-504. Investigation.

12-64-507. Service of charges.

12-64-508. Procedural rules.

12-64-510. Duties of trial and defense counsel.

12-64-516. Obtaining witnesses and other evidence.

SECTION.

12-64-518. Issuance of process, subpoenas, etc.

12-64-520. Contempt.

12-64-523. Convictions, sentences, etc. —
Number of votes required.

12-64-524. Announcement of action.

Effective Dates. Acts 2019, No. 211, § 23; Feb. 26, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the removal of officers who are substandard in performance of duty or in conduct, deficient in character, or unsuited for military service is of paramount importance to the good order and discipline of the Arkansas National Guard and security of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during

which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should

become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through

6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-64-501. Statutes of limitations.

(a) A person charged with desertion or absence without leave in time of war or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

(b) Except as otherwise provided in this section, a person charged with an offense is not liable to be tried by court-martial if the offense was committed more than five (5) years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction over the command.

(c) A person charged with an offense is not liable to be punished by nonjudicial punishment if the offense was committed more than two (2) years before the imposition of nonjudicial punishment.

(d) Periods in which the accused was absent from territory in which the state has authority to apprehend him or her, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

History. Acts 1969, No. 50, § 89; A.S.A. 1947, § 11-644; Acts 2017, No. 76, § 1.

Amendments. The 2017 amendment, in (b), substituted “an offense” for “desertion in time of peace or with perjury” and “five (5) years” for “three (3) years”; in (c), substituted “A person charged with an

offense” for “Except as otherwise provided in this section a person charged with any offense” and deleted “before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction over the command or” following “two (2) years”.

12-64-504. Investigation.

(a) A preliminary hearing shall be held in accordance with 10 U.S.C. § 832 et seq., as it existed on January 1, 2019, before the referral of charges and specifications for trial by general court-martial.

(b)(1) Under rules prescribed by the Governor, a preliminary hearing is not required if the accused submits a written waiver of the preliminary hearing to the convening authority and the convening authority grants the waiver.

(2) The purpose of the preliminary hearing shall be limited to determining the following:

(A) Whether or not the specification alleges an offense under this chapter;

(B) Whether or not there is probable cause to believe that the accused committed the offense charged;

(C) Whether or not the convening authority has court-martial jurisdiction over the accused and over the offense; and

(D) A recommendation as to the disposition that should be made of the case.

(3) The rights of the accused and the rights of the victim shall be the same as provided under 10 U.S.C. § 832 et seq., as it existed on January 1, 2019.

History. Acts 1969, No. 50, § 78; A.S.A. 1947, § 11-633; Acts 2019, No. 211, § 14.

Amendments. The 2019 amendment rewrote the section.

12-64-507. Service of charges.

(a) The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused, or the defense counsel, a copy of the charges upon which trial is to be held.

(b) In time of peace, no person may, against his or her objection, be brought to trial before a general court-martial within a period of five (5) days after the service of the charges upon him or her or before a special court-martial within a period of three (3) days after the service of the charges upon him or her.

History. Acts 1969, No. 50, § 81; A.S.A. 1947, § 11-636; Acts 2019, No. 211, § 15.

Amendments. The 2019 amendment inserted “or the defense counsel” in (a).

12-64-508. Procedural rules.

The procedures used by general, special, and summary courts-martial shall be similar to those established by the United States Congress for similar courts of the United States Army and United States Air Force; however, the Governor has executive authority over the military courts of the organized militia and may implement state-specific procedural rules when necessary and practical.

History. Acts 1969, No. 50, § 82; A.S.A. 1947, § 11-637; Acts 2015, No. 1003, § 19; 2017, No. 75, § 1; 2019, No. 211, § 16.

Amendments. The 2017 amendment substituted “The procedures” for “The procedure” and “established by the United States Congress for” for “used by”, and added “however, the Governor has execu-

tive authority over the military courts of the organized militia.”

The 2019 amendment substituted “similar to those established” for “the same as those established”, and added “and may implement state-specific procedural rules when necessary and practical.”

12-64-510. Duties of trial and defense counsel.

(a) The trial counsel of a general or special court-martial shall prosecute in the name of the state and shall, under the direction of the court, prepare the record of the proceedings.

(b) The accused has the right to be represented in his or her defense before a general or special court-martial by:

(1) Civilian counsel if provided by the accused;

(2) Military counsel of the accused’s own selection if reasonably available; or

(3) The defense counsel detailed under this code.

(c) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters as he or she feels should be considered in behalf of the accused on review including any objection to the contents of the record which he or she considers appropriate.

(d)(1) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he or she is qualified to be a trial counsel as required by this code, perform any duty imposed by law, rule, regulation, or the custom of the service upon the trial counsel of the court.

(2) An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(e) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he or she is qualified to be the defense counsel as required by this code, perform any duty imposed by law, rule, regulation, or the custom of the service upon counsel for the accused.

History. Acts 1969, No. 50, § 84; A.S.A. 1947, § 11-639; Acts 1987, No. 125, § 7; 2015, No. 1003, § 20; 2019, No. 315, § 955. **Amendments.** The 2019 amendment inserted “rule” preceding “regulation” in (d)(1) and (e).

12-64-516. Obtaining witnesses and other evidence.

(a) The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such rules as the Governor may prescribe.

(b) The military judge, the president of a court-martial, or a summary court officer may:

(1) Issue a warrant for the arrest of any accused person who, having been served with a warrant and copy of the charges, disobeys a written order by the convening authority to appear before the court;

(2) Issue subpoenas duces tecum and other subpoenas;

(3) Enforce by attachment the attendance of witnesses and the production of books and papers; and

(4) Sentence for refusal to be sworn or to answer as provided in actions before civil courts of the state.

(c) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the state.

History. Acts 1969, No. 50, § 92; A.S.A. 1947, § 11-647; Acts 1987, No. 125, § 11; 2019, No. 315, § 956. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a).

12-64-518. Issuance of process, subpoenas, etc.

(a) Military courts may issue all process and mandates necessary to carry into effect the powers vested in those courts.

(b) The courts may issue subpoenas and subpoenas duces tecum and enforce by attachment attendance of witnesses and production of books and records when the courts are sitting within the state and the witnesses, books, and records sought are also located.

(c) Such process and mandates may be issued by summary courts-martial or the president or military judge of other military courts and may be directed to and may be executed by the marshals of the military court or any peace officer and shall be in such form as may be prescribed by rules issued under this code.

(d)(1) All officers to whom such process or mandates may be so directed shall execute them and make return of their acts thereunder according to the requirements of those documents.

(2) Except as otherwise specifically provided in this code, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate or for any service in connection therewith.

(e) Any sheriff, constable, jailer, marshal, or other civil officer named in this code, who shall neglect or refuse to obey, execute, or return the lawful warrant or other process of a military court or make a false return thereon, shall be guilty of a misdemeanor and in addition to the penalties attaching thereto, shall forfeit fifty dollars (\$50.00) for each offense or neglect of duty, the money to be recovered in a civil action against the officer and his or her official sureties by the Attorney General for the benefit of the Department of the Military Fund.

History. Acts 1969, No. 50, §§ 169, 176; A.S.A. 1947, §§ 11-680, 11-687; Acts 2017, No. 77, § 1; 2019, No. 315, § 957; 2019, No. 910, § 5540.

The 2019 amendment by No. 315 substituted "rules" for "regulations" in (c).

The 2019 amendment by No. 910 substituted "Department of the Military" for "State Military Department" in (e).

Amendments. The 2017 amendment inserted "or military judge" in (c).

12-64-520. Contempt.

(a) A military court may punish for contempt a person who uses a menacing word, sign, or gesture in its presence, or who disturbs its proceedings by riot or disorder.

(b) The punishment may not exceed confinement for thirty (30) days or a fine of five hundred dollars (\$500), or both.

History. Acts 1969, No. 50, § 94; A.S.A. 1947, § 11-649; Acts 2017, No. 322, § 1.

substituted "five hundred dollars (\$500)" for "one hundred dollars (\$100)" in (b); and made stylistic changes.

Amendments. The 2017 amendment

12-64-523. Convictions, sentences, etc. — Number of votes required.

(a) No person may be convicted of an offense except by the concurrence of three-fourths (³/₄) of the members present at the time the vote is taken.

- (b) All sentences shall be determined by the concurrence of three-fourths (¾) of the members present at the time that the vote is taken.
- (c) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote.
- (d)(1) A tie vote on a challenge disqualifies the member challenged.
- (2) A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused’s sanity is a determination against the accused.
- (3) A tie vote on any other question is a determination in favor of the accused.

History. Acts 1969, No. 50, § 98; A.S.A. 1947, § 11-653; Acts 2019, No. 211, § 17. substituted “three-fourths (3/4)” for “two-thirds (2/3)” in (a) and (b).

Amendments. The 2019 amendment

12-64-524. Announcement of action.

- (a) In all trials, the court-martial shall announce a finding for each charge and specification that is not dismissed or withdrawn by the prosecution to the parties as soon as the findings are determined.
- (b) In all trials before members, the court-martial shall announce a single sentence as to confinement, fines or forfeitures, discharge or dismissal, and reprimand and reduction in rank for all charges and specifications for which the accused was found guilty.
- (c) In all trials before a judge alone, the court-martial shall announce a separate sentence as to confinement, fines or forfeitures, discharge or dismissal, and reprimand and reduction in rank for each charge and specification for which the accused was found guilty.

History. Acts 1969, No. 50, § 99; A.S.A. 1947, § 11-654; Acts 2019, No. 211, § 18.

Amendments. The 2019 amendment rewrote the section.

SUBCHAPTER 6 — SENTENCING

SECTION.	SECTION.
12-64-604. Effective date of sentences.	12-64-609. Fines and forfeitures.
12-64-605. Execution or suspension of sentence.	12-64-610. Delinquent fines or forfeitures.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-64-604. Effective date of sentences.

(a)(1) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority.

(2) No forfeiture may extend to any pay or allowance accrued before that date.

(b)(1) Rules prescribed by the Governor may provide that sentences of confinement may not be effective or executed until approved by designated officers.

(2) Periods during which confinement is suspended shall be excluded in computing the service of the term of confinement.

(c) All other sentences of courts-martial are effective on the date ordered executed.

History. Acts 1969, No. 50, § 103; A.S.A. 1947, § 11-658; Acts 2015, No. 1003, § 24; 2019, No. 315, § 958.

Amendments. The 2019 amendment substituted "Rules" for "Regulations" in (b)(1).

12-64-605. Execution or suspension of sentence.

(a) Except as otherwise provided, a court-martial sentence, unless suspended, may be ordered executed by the convening authority when approved by the convening authority in accordance with rules prescribed by the Governor.

(b) The convening authority shall approve the sentence or such part, amount, or commuted form of the sentence as the convening authority sees fit and may suspend the execution of the sentence.

History. Acts 1969, No. 50, § 105; A.S.A. 1947, § 11-660; Acts 2015, No. 1003, § 25; 2019, No. 315, § 959.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a).

12-64-609. Fines and forfeitures.

(a) Fines may be paid to a military court or to an officer executing its process.

(b)(1) The amount of a fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him or her, until the fine is liquidated.

(2) Any sum so deducted shall be turned in to the military court which imposed the fine and shall be paid over by the officer receiving it in like manner as provided for other fines and moneys collected under a sentence of a summary court-martial.

(c)(1) Notwithstanding any other law, a fine or penalty imposed by a military court upon an officer or enlistee shall be paid by the officer collecting it within thirty (30) days to the Treasurer of State and shall

become a part of, be credited to, and be spent from, the Department of the Military Fund.

(2) The Treasurer of State shall then report the amount thereof to the Adjutant General and shall pay it over in appropriate warrant.

(d) If a punishment of fine or forfeiture of an amount of base pay and allowance is imposed by a court-martial, the amount of the fine or forfeiture shall apply to any type or category of pay and allowances then due or becoming due on or after the date that the punishment is imposed before any deduction, withholding, assignment, previous forfeiture, or collection from the pay and allowances, and to any pay and allowances accrued before that date.

History. Acts 1969, No. 50, § 171; in (c)(1), substituted “Treasurer of State”
A.S.A. 1947, § 11-682; Acts 2007, No. 47, for “Treasurer of State of Arkansas” and
§ 6; 2019, No. 910, § 5541. “Department of the Military” for “State
Military Department”.

12-64-610. Delinquent fines or forfeitures.

(a)(1) When a fine or forfeiture is delinquent for a period of ninety (90) days or more, the Department of the Military shall have a cause of action against the person and property liable for the delinquent portion of the fine or forfeiture, costs of collection, penalties, and interest to which the Department of the Military is entitled, plus a reasonable attorney’s fee.

(2) The Department of the Military shall have a lien on all property subject to forfeiture.

(b) The action shall be brought in the Pulaski County Circuit Court.

(c) The judgment awarded the Department of the Military under this section shall be enforceable to the same extent and in the same manner as other civil judgments.

History. Acts 2015, No. 1003, § 27; substituted “Department of the Military”
2019, No. 910, § 5542. for “State Military Department” through-
Amendments. The 2019 amendment out the section.

SUBCHAPTER 7 — REVIEW OF COURTS-MARTIAL

SECTION.
12-64-710. Review counsel.
12-64-713. New trial — Effect on sen-
tence.

SECTION.
12-64-714. Appeal.

Effective Dates. Acts 2019, No. 211,
§ 23: Feb. 26, 2019. Emergency clause
provided: “It is found and determined by
the General Assembly of the State of Ar-
kansas that the removal of officers who
are substandard in performance of duty or
in conduct, deficient in character, or un-

sued for military service is of paramount
importance to the good order and disci-
pline of the Arkansas National Guard and
security of the State of Arkansas. There-
fore, an emergency is declared to exist,
and this act being immediately necessary
for the preservation of the public peace,

health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during

which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

12-64-710. Review counsel.

The accused has the right to be represented during a review of records under this subchapter by:

- (1) Civilian counsel if provided by the accused;
- (2) Military counsel of the accused’s own selection if reasonably available; or
- (3) The defense counsel detailed under this code.

History. Acts 1969, No. 50, § 113; A.S.A. 1947, § 11-668; Acts 2015, No. 1003, § 30; 2017, No. 250, § 30.

Amendments. The 2017 amendment added “or” at the end of (2).

12-64-713. New trial — Effect on sentence.

(a) Under such rules as the Governor may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing.

(b) If a previously executed sentence of dishonorable or bad-conduct discharge is not imposed on a new trial, the Governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his or her enlistment.

(c)(1) If a previously executed sentence of dismissal is not imposed on a new trial, the Governor shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the Governor alone to such commissioned grade and with such rank as in the opinion of the Governor that former officer would have attained had he or she not been dismissed.

(2) The reappointment of such a former officer may be made if a position vacancy is available under applicable tables of organization.

(3) All times between the dismissal and the reappointment shall be considered as service for all purposes.

History. Acts 1969, No. 50, § 117; A.S.A. 1947, § 11-672; Acts 2019, No. 315, § 960.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a).

12-64-714. Appeal.

(a)(1)(A) When an accused has exhausted all other rights of review within the organized militia, the accused may appeal a conviction and sentence of a court-martial that sentences the accused to incarceration to:

(i) The Supreme Court; or

(ii) If the rules of the Supreme Court provide, the Court of Appeals.

(B) The Arkansas Rules of Appellate Procedure-Criminal shall apply to all appeals to the Supreme Court and Court of Appeals under this code.

(2) When an accused has exhausted all other rights of review with the organized militia, the accused may appeal the conviction and sentence of any court-martial that does not sentence the accused to incarceration to a board of review as provided under § 12-64-704.

(b) The proceedings for an appeal shall be initiated by filing a notice of appeal with the Adjutant General. The notice of appeal shall be served on the Adjutant General personally or by certified mail. It shall be unnecessary to serve other parties. Any appeal shall be filed with the Adjutant General no more than thirty (30) days after the effective date of the sentence under § 12-64-604.

(c) The record of any court-martial conviction and sentence appealed shall be lodged in the office of the clerk of the court within the time prescribed by law or court rule for filing an appeal of a criminal conviction in a circuit court in this state, and not thereafter, and only after the party appealing has paid to the Adjutant General the costs for preparation of the certified transcripts and to the military court clerk the filing costs, except for paupers as provided for by the appellate court rules.

(d) In all cases of appeal to the Supreme Court or Court of Appeals, the appeal shall be taken on the record in the case, consisting of pertinent documents and papers, any transcript of evidence, and the findings and orders. The appellate jurisdiction of the Supreme Court and Court of Appeals shall extend only to questions of law, as in criminal cases appealed from the circuit courts.

(e) Upon request of the defendant and a showing of indigency, the State Judge Advocate may appoint an attorney having the qualifications prescribed in § 12-64-410 to represent the defendant in the appeal of his or her court-martial conviction and sentence to the Supreme Court or Court of Appeals.

(f) On an appeal under subdivision (a)(1) of this section, the state shall be represented by the Attorney General or his or her designee.

History. Acts 1987, No. 125, § 14; in (c), substituted “certified transcripts”
2015, No. 1003, § 32; 2019, No. 211, § 19. for “transcript” and inserted “military”.

Amendments. The 2019 amendment,

SUBCHAPTER 8 — PUNITIVE ARTICLES

SECTION.

12-64-808. Fraudulent or unlawful enlistment, appointment, or separation.

12-64-814. Assault generally.

12-64-817. Failure to obey order or rule.

12-64-829. Misconduct as a prisoner.

12-64-830. False official statements.

SECTION.

12-64-848. Adultery.

12-64-849. Retaliation.

12-64-850. Fraudulent use of credit cards, debit cards, and other access devices.

12-64-851. Prohibited activities by person in position of special trust.

Effective Dates. Acts 2019, No. 211, § 23: Feb. 26, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the removal of officers who are substandard in performance of duty or in conduct, deficient in character, or unsuited for military service is of paramount importance to the good order and discipline of the Arkansas National Guard and security of the State of Arkansas. Therefore, an emergency is declared to exist,

and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

12-64-808. Fraudulent or unlawful enlistment, appointment, or separation.

(a) Any person shall be punished as a court-martial may direct if he or she:

(1) Procures his or her own enlistment or appointment in the organized militia by knowingly false representation or deliberate concealment as to his or her qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) Procures his or her own separation from the organized militia by knowingly false representation or deliberate concealment as to his or her eligibility for that separation.

(b) Any person subject to this code who effects an enlistment or appointment in or a separation from the organized militia of any person who is known to him or her to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, rule, or order shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, §§ 126, 127; A.S.A. 1947, §§ 11-708, 11-709; Acts 2019, No. 315, § 961.

Amendments. The 2019 amendment substituted “rule” for “regulation” in (b).

12-64-814. Assault generally.

A person subject to this code shall be punished as a court-martial may direct if he or she unlawfully and with force or violence:

- (1) Attempts to do bodily harm to another person;
- (2) Offers to do bodily harm to another person; or
- (3) Does bodily harm to another person.

History. Acts 1969, No. 50, § 133; 1983, No. 412, § 2; A.S.A. 1947, § 11-715; Acts 2019, No. 211, § 20.

Amendments. The 2019 amendment substituted “shall be punished as a court-martial may direct if he or she unlawfully and with force or violence” for “who attempts, or offers with unlawful force or

violence to do bodily harm to another person, whether or not the attempt or offer is consummated is guilty of assault and shall be punished as a court-martial may direct” in the introductory language; added (1), (2) and (3), and made a stylistic change.

12-64-817. Failure to obey order or rule.

Any person subject to this code shall be punished as a court-martial may direct if he or she:

(1)(A) Violates or fails to obey any lawful order or rule. A lawful order or rule is a written, electronic, nonverbal or oral communication by a member of the armed forces acting within the scope of official military duties regarding instruction, decision, rule, judgment, directive, procedure, statement or command, and which primarily affects the action, organization, training, good order, discipline, property, welfare, administration, operation, and procedure of the armed forces.

(B) Lawful orders and rules shall not be subject to the requirements of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(2) Having knowledge of any other lawful order issued by a member of the organized militia, which it is his or her duty to obey, fails to obey the order; or

(3) Is derelict in the performance of his or her duties.

History. Acts 1969, No. 50, § 135; A.S.A. 1947, § 11-717; Acts 1993, No. 926, § 1; 1993, No. 1035, § 1; 2019, No. 315, § 962.

Amendments. The 2019 amendment substituted “rule” for “regulation” in the section heading and twice in (1)(A); and made a similar change in (1)(B).

12-64-829. Misconduct as a prisoner.

Any person subject to this code shall be punished as a court-martial may direct if he or she, while in the hands of the enemy in time of war:

(1) For the purpose of securing favorable treatment by his or her captors, acts without proper authority in a manner contrary to law, custom, rule, or regulation, to the detriment of other of whatever nationality held by the enemy as civilian or military prisoners; or

(2) While in a position of authority over such persons, maltreats them without justifiable cause.

History. Acts 1969, No. 50, § 147; A.S.A. 1947, § 11-729; Acts 2019, No. 315, § 963.

Amendments. The 2019 amendment inserted “rule” in (1).

12-64-830. False official statements.

Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, rule, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 148; A.S.A. 1947, § 11-730; Acts 2019, No. 315, § 964. **Amendments.** The 2019 amendment inserted “rule”.

12-64-848. Adultery.

A person subject to this code shall be punished as a court-martial directs if:

(1) He or she wrongfully engages in extramarital conduct with another person;

(2) At the time the extramarital conduct occurs he or she is married to someone else or knows that the other person is married to someone else; and

(3) Under the circumstances, his or her conduct is to the prejudice of good order and discipline required by a member of the United States Armed Forces or is of a nature that brings discredit upon the United States Armed Forces.

History. Acts 2015, No. 1003, § 41; 2019, No. 211, § 21.

Amendments. The 2019 amendment substituted “A person subject to this code shall be punished as a court-martial directs if” for “A married person subject to this code who has sexual conduct with a person not his or her spouse under circumstances that prejudice good order and discipline may be punished as a court-martial may direct” in the introductory language; and added (1), (2) and (3).

12-64-849. Retaliation.

A person subject to this code shall be punished as a court-martial may direct if he or she, with the intent to retaliate against a person for reporting or planning to report a criminal offense, or with the intent to discourage any person from reporting a criminal offense:

(1) Wrongfully takes or threatens to take adverse personnel action against any person; or

(2) Wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person.

History. Acts 2019, No. 211, § 22.

12-64-850. Fraudulent use of credit cards, debit cards, and other access devices.

A person subject to this code shall be punished as a court-martial may direct if the person knowingly and with the intent to defraud obtains anything of value using a:

(1) Stolen credit card, debit card, or other access device;

(2) Revoked, canceled, or otherwise invalid credit card, debit card, or other access device; or

(3) Credit card, debit card, or other access device without the authorization of the person authorized to use the credit card, debit card, or other access device.

History. Acts 2019, No. 211, § 22.

12-64-851. Prohibited activities by person in position of special trust.

(a) An officer, a noncommissioned officer, or a petty officer shall be punished as a court-martial may direct for abuse of a training leadership position if he or she:

(1) Is in a training leadership position with respect to a specially protected junior member of the armed forces; and

(2) Engages in prohibited sexual activity with the specially protected junior member of the armed forces.

(b) A military recruiter shall be punished as a court-martial may direct for abuse of a position as a military recruiter if he or she engages in prohibited sexual activity with:

(1) An applicant he or she is recruiting to enlist in military service; or

(2) A specially protected junior member of the armed forces who enlisted under a delayed entry program.

(c) Consent is not a defense for any prohibited conduct at issue in a prosecution under this section.

History. Acts 2019, No. 211, § 22.

SUBTITLE 5. EMERGENCY MANAGEMENT

CHAPTER 75

ARKANSAS EMERGENCY SERVICES ACT OF 1973

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

12-75-106. Enforcement.

12-75-109. Division of Emergency Management — Establishment — Personnel.

12-75-110. Division of Emergency Management — State emergency operations plan.

SECTION.

12-75-111. Division of Emergency Management — Other powers and duties.

12-75-112. Communications networks.

12-75-113. Emergency response vehicles.

12-75-114. Governor — Disaster emergency responsibilities.

SECTION.

- 12-75-115. Disaster prevention generally.
- 12-75-116. State and local governmental entities — Liaison officers.
- 12-75-117. Interjurisdictional disaster planning and service areas.
- 12-75-118. Local and interjurisdictional offices of emergency management and services.

SECTION.

- 12-75-119. Statewide mutual aid system.
- 12-75-126. Public safety officers.
- 12-75-129. Emergency responders — Workers' compensation benefits.
- 12-75-131. Disaster relief pay.
- 12-75-132. Arkansas Homeland Security Advisory Group — Created.

A.C.R.C. Notes. Acts 2003, No. 1366, as amended by Acts 2005, No. 1823, §§ 1, 2, Acts 2007, No. 432, § 1, Acts 2009, No. 560, § 1, Acts 2011, No. 723, § 1, Acts 2015, No. 347, § 1, and Acts 2019, No. 599, § 1, provides: "SECTION 1. Findings.

"The Arkansas General Assembly finds that:

"(1) The threat of terrorism and the use of weapons of mass destruction has become a reality in the United States and the State of Arkansas, the emergency service agencies of state and local government have had to assume the new and serious responsibilities of protecting the citizenry from these threats from both domestic and international sources;

"(2) It is incumbent upon emergency service agencies of this state to assess vulnerabilities, make plans, and develop operational procedures to prevent, investigate, and respond to these threats; and

"(3) It is of the utmost importance that those who may engage in acts of terrorism or employ weapons of mass destruction against the people and property of this state not have access to the information designed to prevent and defeat them.

"SECTION 2. Definitions.

"As used in this act:

"(1) 'Catastrophe' means a man-made event that causes disastrous property damage, death, or serious physical injury to multiple people by explosion, fire, flood, avalanche, collapse of building, distribution of poison, radioactive material, bacteria, virus, or other dangerous and difficult to confine force or substance;

"(2) 'Cybersecurity incident' means an actual or threatened event that jeopardizes the security, integrity, confidentiality, or availability of the following if owned or used by state or local government:

"(A) Computers, information, or communications systems or networks; or

"(B) Data or other physical or virtual infrastructure controlled by computers or information systems;

"(3) 'Emergency service agency' means an agency or department of the State of Arkansas or any county, city, or the State of Arkansas that has first responder or investigative responsibilities in the event of a cybersecurity incident or catastrophe or use of a weapon of mass destruction; and

"(4) 'Weapon of mass destruction' means an explosive, chemical, radioactive, or biological agent, or any other substance or device capable of causing extensive property damage, death, or serious physical injury to multiple persons in a single act or series of acts.

"SECTION 3. Threat assessments and plans.

"(a)(1) The threat assessments, plans, operational policies or procedures, and training developed or maintained by any emergency service agency for the purpose of preventing, investigating, or responding to a cybersecurity incident, catastrophe, or use of weapons of mass destruction are not subject to public disclosure as public records except if the disclosure is determined in the best public interest by the head of the emergency service agency.

"(2) Any document or information received by an emergency service agency from an agency of the United States government, another state, or its political subdivisions that is not subject to disclosure under the laws governing the source agency is not subject to public disclosure as a public record from the Arkansas agency.

"(3) Investigative files of emergency service agencies relating to a cybersecu-

rity incident, catastrophe, or use of a weapon of mass destruction are not subject to public disclosure until after final adjudication.

“SECTION 4. Sunset Clause.

“This act expires on July 1, 2023.”

Acts 2019, No. 599, § 2, provided: “It is found and determined by the General Assembly of the State of Arkansas that this act should be enacted to extend the current protections of the citizens of Arkansas; and that this act is necessary due to the threat to the security of emergency service agency plans and threat assessments. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

Acts 2019, No. 397, § 1, provided: “Title. This act shall be known as the ‘Security Protocol Act for Arkansas Public Events’.”

Acts 2019, No. 397, § 2, provided: “Uniform Security Protocol for Arkansas Public Events Committee — Creation — Membership — Duties.

“(a) There is created the Uniform Security Protocol for Arkansas Public Events Committee.

“(b)(1) The committee shall consist of ten (10) members to be appointed as follows:

“(A) One (1) member who is a law enforcement employee of the University of Arkansas to be appointed by the President of the University of Arkansas;

“(B) One (1) member who is a law enforcement employee of Arkansas State University to be appointed by the President of Arkansas State University;

“(C) One (1) member who is a law enforcement employee of the University of Central Arkansas to be appointed by the President of the University of Central Arkansas;

“(D) One (1) member who is a law enforcement employee of a higher education institution in Arkansas that is a member of the Great American Conference to be appointed by the Governor;

“(E) The Executive Director of the Arkansas Activities Association or his or her designee;

“(F) One (1) member who is a security employee of Verizon Arena to be appointed by the Governor;

“(G) The Director of the Department of Parks and Tourism or his or her designee;

“(H) The Director of the Department of Arkansas State Police or his or her designee;

“(I) The Director of the Arkansas Department of Emergency Management or his or her designee; and

“(J) A representative of Oaklawn Racing and Gaming appointed by the Governor.

“(2) All appointments under this act shall be made within thirty (30) days of the effective date of this act [July 24, 2019].

“(3) If a vacancy occurs on the committee, the vacancy shall be filled by the same process as the original appointment.

“(4) Members of the committee shall serve without compensation but may receive reimbursement under Arkansas Code § 25-16-902, through the Arkansas Department of Emergency Management.

“(c)(1) The Director of the Arkansas Department of Emergency Management shall call the first meeting of the committee no later than September 30, 2019.

“(2) At the first meeting of the committee, the members of the committee shall elect from its membership a chair and other officers as needed for the transaction of its business.

“(3) The committee shall conduct its meetings in Pulaski County at the State Capitol or another facility that allows for public access and teleconferencing capabilities.

“(4) Meetings of the committee shall be held at least one (1) time every two (2) months but may occur more often at the call of the chair.

“(d) The Arkansas Department of Emergency Management shall provide staff and materials for the committee.

“(e)(1) The committee shall establish rules and procedures for conducting its business.

“(2) A majority of the membership shall constitute a quorum.

“(3) A majority vote of the members present shall be required for any action by the committee.

“(f)(1)(A) The committee shall develop a suggested standard security protocol of best practices for admission procedures for public events, whether ticketed or unticketed, held at arenas, stadiums, auditoriums, and other facilities designed to

hold large numbers of people for public events.

“(B) In developing the protocol, the committee shall consider without limitation:

“(i) Each applicable venue’s size and capacity;

“(ii) Whether the event is ticketed or unticketed;

“(iii) Whether the venue is indoors or outside; and

“(iv) Any other factor relevant to determining the appropriate security regulations for the different types of events and locations throughout the state.

“(2) The protocol specifications shall include without limitation:

“(A) Designation of the types and sizes of items that may be brought into an event;

“(B) Standards for purses, bags, sacks, backpacks, and other implements designed to carry other items; and

“(C) Standards and recommendations for secure admissions to public events.

“(g)(1) The committee shall report its findings and recommendations to the Arkansas Department of Emergency Management on or before December 31, 2019.

“(2)(A) The department shall notify the arenas, stadiums, auditoriums, and other facilities represented by the members of the committee by publication of the findings and recommendations of the committee on its website.

“(B) Upon request to the department, the findings and recommendations of the committee will be made available to any public entity for use at a ticketed or unticketed event.

“(h) The committee expires on December 31, 2019.”

Effective Dates. Acts 2019, No. 702, § 3: July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of the Arkansas Department of Emergency Management; that these revisions impact the expenses and operations of the Arkansas Department of Emergency Management; and that the provisions of this act should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety, shall become effective on July 1, 2019”.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-75-106. Enforcement.

(a) Each state office of emergency management and local office of emergency management and the officers of each state office of emergency management and local office of emergency management shall execute and enforce such orders and rules as may be made by the Governor under authority of this chapter.

(b) Each state office of emergency management and local office of emergency management shall make available for inspection at its office all orders and rules made by the Governor or made under his or her authority.

History. Acts 1973, No. 511, § 27; A.S.A. 1947, § 11-1957; Acts 2009, No. 165, § 28; 2019, No. 315, § 965. **Amendments.** The 2019 amendment substituted “orders and rules” for “orders, rules, and regulations” in (a) and (b).

12-75-109. Division of Emergency Management — Establishment — Personnel.

(a) The Division of Emergency Management is established as a public safety agency of the State of Arkansas.

(b)(1) The Division of Emergency Management shall have a Director of the Division of Emergency Management who is appointed by the Governor, with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Public Safety.

(c)(1) The division shall have such professional, technical, secretarial, and clerical employees and may make such expenditures within its appropriations or from any federal or other funds made available to it from any source whatsoever for the purpose of emergency services, as may be necessary to carry out the purposes of this chapter.

(2) All such employees shall be in job positions as approved by the secretary and the Office of Personnel Management.

(d)(1) There is created within the division an emergency reserve cadre to be composed of trained and available specialists to assist regular employees during declared disaster response and recovery operations.

(2) The director shall establish training and professional standards required to supplement state personnel based on state and federal disaster recovery program needs and shall establish a list of persons with those qualifications and make available to emergency reserve cadre personnel such additional training and education opportunities as may be needed to maintain currency and proficiency in the needed skills.

(3)(A) Emergency reserve cadre personnel shall be reimbursed at the current state classified entry level salary rate for the position they are temporarily employed to fill and meet such additional training, experience, and qualifications as established by the director for the grade level of the position for which they are employed.

(B) Emergency reserve cadre personnel shall:

(i) Be paid from disaster management funds or administrative funds, or both;

(ii) Be limited to salary, logistical, and travel expenses only; and

(iii) Not accrue ordinary leave, sick leave, or other employee benefits except for workers' compensation eligibility for injuries or death suffered in the line of duty.

(4)(A) Emergency reserve cadre personnel may be called to active duty upon declaration of a disaster emergency as stipulated in this chapter or the Disaster Relief Act of 1974, Pub. L. No. 93-288, or both, or by executive order of the Governor upon recommendation by the

director for due cause or pending emergency needs or for disaster-related assistance to the division as determined by the director and shall remain on active duty no longer than the maximum allowed by the office for part-time employment status.

(B) Based on the size, impact, and magnitude of the disaster event, the director shall determine the minimum number of emergency reserve cadre personnel required to effectively supplement regular state emergency management personnel.

(5) While in service described in subdivision (d)(4)(A) of this section, the emergency reserve cadre personnel have the same immunities as regular state employees for good faith performance of their designated and assigned official duties under state sovereignty laws and practices.

History. Acts 1973, No. 511, § 5; 1977, No. 408, § 1; 1985, No. 687, § 4; 1985, No. 978, § 4; A.S.A. 1947, § 11-1938; Acts 1999, No. 646, § 15; 2001, No. 1278, § 3; 2007, No. 197, § 6; 2009, No. 165, § 31; 2013, No. 169, § 2; 2019, No. 910, § 5875.

Amendments. The 2019 amendment substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in the section heading and throughout the section; re-designated former (b) as (b)(1); substi-

tuted “Director of the Division of Emergency Management who is” for “director” in (b)(1); added (b)(2); inserted “secretary and the” in (c)(2); deleted “of the Division of Management Services of the Department of Finance and Administration” following “Office of Personnel Management” in (c)(2) and in (d)(4)(A); and substituted “director” for “Director of the Arkansas Department of Emergency Management” in (d)(2).

12-75-110. Division of Emergency Management — State emergency operations plan.

(a) The Division of Emergency Management shall coordinate and maintain a state emergency operations plan and keep it current, which plan may include:

(1) Prevention and minimization of injury and damage caused by disaster;

(2) Measures for prompt and effective response to disasters;

(3) Emergency relief;

(4) Identification of areas particularly vulnerable to disasters;

(5) Recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(6) Assistance to local officials in designing local emergency action plans;

(7) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disasters;

(8) Preparation and distribution to appropriate state and local officials of state catalogues of federal, state, and private assistance programs;

(9) Organization of personnel and the establishment of chains of command;

(10) Coordination of federal, state, and local disaster activities;

(11) Coordination of the state emergency operations plan with the operations plans of the federal government, including without limitation, the National Response Framework;

(12) Establishment of the criteria and definitions for determining catastrophic losses suffered by both individuals and public entities and the enhanced levels of assistance to be provided upon the declaration of a catastrophic loss disaster; and

(13) Other necessary matters.

(b)(1) In preparing and revising the state emergency operations plan, the division shall seek the advice and assistance of state agencies, local government, business, labor, industry, agriculture, civic, and volunteer organizations, and community leaders.

(2) In advising local and jurisdictional agencies, the division shall encourage them also to seek advice from the entities listed in subdivision (b)(1) of this section.

(c) The state emergency operations plan or any part of the state emergency operations plan may be incorporated in rules of the division or executive orders that have the force and effect of law.

History. Acts 1973, No. 511, § 5; 1977, No. 408, § 1; A.S.A. 1947, § 11-1938; Acts 1999, No. 449, § 6; 1999, No. 646, § 16; 2007, No. 197, § 7; 2009, No. 165, §§ 32, 33; 2019, No. 910, §§ 5876, 5877.

substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in the introductory language of (a); and substituted "division" for "department" in (b)(1), (b)(2), and (c).

Amendments. The 2019 amendment

12-75-111. Division of Emergency Management — Other powers and duties.

(a) The Division of Emergency Management shall, with the assistance and cooperation of other state and local government agencies:

(1) Determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of an emergency;

(2) Procure and pre-position supplies, medicines, materials, and equipment;

(3) Promulgate standards and requirements for local and interjurisdictional emergency operations plans;

(4) Periodically review local and interjurisdictional emergency operations plans;

(5) Provide for mobile support units;

(6) Establish and operate or assist political subdivisions, their local offices of emergency management, and interjurisdictional offices of emergency management to establish and operate training programs and programs of public information;

(7) Make surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of this chapter;

(8) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;

(9) Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;

(10) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;

(11) Prepare for issuance by the Governor of executive orders, proclamations, and rules as necessary or appropriate in coping with disasters;

(12) Cooperate with the federal government and any public or private agency or entity in achieving the purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and

(13) Do other things necessary, incidental, or appropriate for the implementation of this chapter.

(b)(1) The division shall take an integral part in the development and revision of local and interjurisdictional emergency operations plans prepared under § 12-75-118.

(2)(A) To meet the requirements of subdivision (b)(1) of this section, the division shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their local offices of emergency management, interjurisdictional planning, and interjurisdictional offices of emergency management.

(B) Personnel described in subdivision (b)(2)(A) of this section shall consult with political subdivisions, local offices of emergency management, and interjurisdictional offices of emergency management on a regularly scheduled basis and shall make field examinations of the area, circumstances, and conditions to which particular local and interjurisdictional emergency operations plans are intended to apply and may suggest or require revisions.

(c)(1) The division shall administer and operate the Arkansas Wireless Information Network.

(2) The division shall perform all functions necessary to maintain and operate the Arkansas Wireless Information Network, including without limitation:

(A) Employ personnel;

(B) Manage, maintain, and acquire all equipment and assets;

(C) Enter into contracts and lease agreements on behalf of the Arkansas Wireless Information Network; and

(D) Administer the budget, expenditures, and all funding of the Arkansas Wireless Information Network.

History. Acts 1973, No. 511, § 5; 1977, 1999, No. 646, § 17; 2007, No. 197, § 8; No. 408, § 1; A.S.A. 1947, § 11-1938; Acts 2009, No. 165, §§ 34, 35; 2019, No. 315, §

966; 2019, No. 702, § 2; 2019, No. 910, §§ 5878, 5879.

A.C.R.C. Notes. Acts 2019, No. 702, § 1, provided: “Transfer of the Arkansas Wireless Information Network to the Arkansas Department of Emergency Management.”

“(a) The Arkansas Wireless Information Network is transferred to the Arkansas Department of Emergency Management.”

“(b) All authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the

functions of budgeting and purchasing of the Arkansas Wireless Information Network, are transferred to the Arkansas Department of Emergency Management.”

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a)(11).

The 2019 amendment by No. 702 added (c).

The 2019 amendment by No. 910 substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in the introductory language of (a); and substituted “division” for “department” in (b)(1) and (b)(2)(A).

12-75-112. Communications networks.

(a) The Division of Emergency Management shall operate and maintain information systems which will make available both voice and data links with federal agencies, other states, and state agencies as are assigned an emergency management role in the state emergency operations plan and local offices of emergency management.

(b) In addition to the minimum requirements of subsection (a) of this section, additional information systems networks may be established as deemed necessary by the Director of the Division of Emergency Management.

History. Acts 1973, No. 511, § 5; 1977, No. 408, § 1; 1985, No. 687, § 4; 1985, No. 978, § 4; A.S.A. 1947, § 11-1938; Acts 1999, No. 646, § 18; 2007, No. 197, § 9; 2009, No. 165, § 36; 2019, No. 910, § 5880.

Amendments. The 2019 amendment substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (a) and (b).

12-75-113. Emergency response vehicles.

(a) Due to the time-critical nature of response to the scene of a disaster or major emergency occurrence, the Director of the Division of Emergency Management may designate appropriate vehicles as requested in the staffing patterns of the state offices of emergency management and local offices of emergency management and designate other state agency vehicles with an emergency management response requirement as emergency response vehicles.

(b) Designated state and local government emergency response vehicles under this chapter shall share the same privileges and immunities regarding traffic laws and ordinances as other emergency vehicles as defined by state law.

(c) Emergency vehicles authorized by this chapter shall be identified by a flashing light or rotating beacon which will be green in color.

(d) When responding to an emergency, the designated emergency vehicle shall have flashing lights or rotating beacon activated and must be equipped with and operating a siren device.

History. Acts 1973, No. 511, § 8; 1985, No. 687, § 6; 1985, No. 978, § 6; A.S.A. 1947, § 11-1941; Acts 1999, No. 646, § 19; 2009, No. 165, § 37; 2019, No. 910, § 5881.

Amendments. The 2019 amendment substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in (a).

12-75-114. Governor — Disaster emergency responsibilities.

(a) The Governor is responsible for meeting and mitigating, to the maximum extent possible, dangers to the people and property of the state presented or threatened by disasters.

(b)(1) Under this chapter, the Governor may issue executive orders, proclamations, and rules and amend or rescind them.

(2) Executive orders, proclamations, and regulations have the force and effect of law.

(c)(1) There is created within the office of the Governor a disaster response fund, a disaster recovery fund, a catastrophic loss fund, and a hazard mitigation fund, which shall be separate and apart from the Governor's standard emergency fund.

(2) The initial amount of the disaster response fund shall be in the amount of two million dollars (\$2,000,000), solely for use to defray the cost of immediate emergency response.

(3) The disaster recovery fund shall be in the amount of five million dollars (\$5,000,000), with:

(A) The sum of two million dollars (\$2,000,000) from the disaster recovery fund solely for use in individual assistance; and

(B) The sum of three million dollars (\$3,000,000) from the disaster recovery fund solely for use in public assistance.

(4) The hazard mitigation fund shall be in the amount of three million dollars (\$3,000,000), solely for use in hazard mitigation assistance.

(5) The sum of three million two hundred fifty thousand dollars (\$3,250,000) from the catastrophic loss fund solely for use in catastrophic losses suffered by both individuals and public entities.

(6) The Governor's disaster fund may be increased from time to time at the discretion of the Governor.

(7) Expenditures from the individual assistance and public assistance funds may only be made in the event of a disaster as defined in § 12-75-103 and only upon proclamation by the Governor.

(8) Expenditures from the emergency response fund shall be made by executive order of the Governor, upon recommendation and verification by the Director of the Division of Emergency Management, and may only be made to defray immediate costs associated with response activities by emergency forces of state and local governments and private nonprofit forces duly registered in accordance with § 12-75-129.

(9)(A) Expenditures from the hazard mitigation fund shall be made by executive order of the Governor.

(B) The director shall establish and maintain a current hazard vulnerability analysis of key critical public facilities eligible for assistance under the Governor's hazard mitigation fund.

(10)(A) Expenditures from the catastrophic loss fund may only be made in the event of a federally declared disaster, as well as a disaster as defined in § 12-75-103, and only upon a separate proclamation by the Governor that a disaster has occurred in which catastrophic losses have been suffered by individuals or public entities in the state, or both.

(B) The director shall establish and maintain such criteria as are necessary to administer the funds authorized for catastrophic loss.

(d)(1) During the continuance of any state of disaster emergency, the Governor is Commander-in-Chief of all forces available for emergency duty.

(2) To the greatest extent practicable, the Governor shall delegate or assign operational control by prior arrangement embodied in appropriate executive orders or rules, but nothing in this section restricts the Governor's authority to do so by orders issued at the time of the disaster emergency.

(e) In addition to any other powers conferred upon the Governor by law, the Governor may:

(1) Suspend the provisions of any regulatory statutes prescribing the procedures for conduct of state business, or the orders or rules of any state agency, if strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(2) Utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;

(3) Transfer the direction, personnel, or functions of state departments and agencies or units of state departments and agencies for the purpose of performing or facilitating emergency management;

(4) Subject to any applicable requirements for compensation under § 12-75-124, commandeer or utilize any private property if he or she finds this necessary to cope with the disaster emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the Governor deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles; and

(9) Make provision for the availability and use of temporary emergency housing.

History. Acts 1973, No. 511, § 8; 1985, 1993, No. 1049, § 3; 1995, No. 116, § 2; No. 629, § 2; A.S.A. 1947, § 11-1941; Acts 1999, No. 449, § 7; 1999, No. 646, §§ 20,

21; 2001, No. 1278, § 4; 2007, No. 1290, § 86; 2009, No. 165, §§ 38, 39; 2013, No. 547, § 1; 2019, No. 315, §§ 967-969; 2019, No. 910, § 5882.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (b)(1) and (d)(2); and in (e)(1),

substituted “orders or rules” for “orders, rules, or regulations” and substituted “order, or rule” for “order, rule, or regulation”.

The 2019 amendment by No. 910 substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (c)(8).

12-75-115. Disaster prevention generally.

(a)(1) In addition to disaster prevention measures as included in the state, local, and interjurisdictional emergency operations plans, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters.

(2) At the Governor’s direction, and pursuant to any other authority and competence state agencies have, including, but not limited to, those charged with responsibilities in flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards shall make studies of disaster prevention-related matters.

(3) Studies under subdivision (a)(2) of this section shall be furnished to the Governor and the Division of Emergency Management as soon as possible after completion and shall concentrate on means of reducing or avoiding damage caused by possible disasters or the consequences of possible disasters.

(4) The Governor, from time to time, shall make recommendations to the General Assembly, local government, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(b)(1) If the division believes, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land use control in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor.

(2) If the Governor, upon review of the recommendation, finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter.

(3) If no action or insufficient action pursuant to the Governor’s recommendations is taken within the time specified by the Governor, he or she shall so inform the General Assembly and request legislative action appropriate to mitigate the impact of disaster.

(c)(1) At the same time that the Governor makes his or her recommendations pursuant to subsection (b) of this section, the Governor may suspend the standard or control which he or she finds to be inadequate

to protect the public safety and by rule place a new standard or control in effect.

(2) The new standard or control shall remain in effect until rejected by concurrent resolution of both houses of the General Assembly or amended by the Governor.

(3) During the time it is in effect, the standard or control contained in the Governor's rule shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies.

(4) The Governor's action is subject to judicial review in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., but shall not be subject to temporary stay pending litigation.

History. Acts 1973, No. 511, § 14; 1977, No. 408, § 5; 1981, No. 891, § 3; A.S.A. 1947, § 11-1947; Acts 1999, No. 646, §§ 22, 23; 2007, No. 197, § 10; 2009, No. 165, § 40; 2019, No. 315, §§ 970, 971; 2019, No. 910, §§ 5883, 5884.

The 2019 amendment by No. 910 substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in (a)(3); and substituted "division" for "department" in (b)(1).

Amendments. The 2019 amendment by No. 315 substituted "rule" for "regulation" in (c)(1) and (c)(3).

12-75-116. State and local governmental entities — Liaison officers.

(a)(1) It is the policy of this chapter that each department, commission, agency, or institution of state and local government actively and aggressively support the state offices of emergency management and local offices of emergency management to the end of providing the best possible preparation for response to or recovery from any emergency situation that may occur.

(2) In furtherance of the policy described in subdivision (a)(1) of this section, the head of each state department, commission, agency, or institution with an emergency management role or responsibility shall appoint a member or members of his or her staff as agency emergency management liaison officer or officers to act on his or her behalf in ensuring the agency's capability to fulfill its role in emergency management activities and shall ensure that the Division of Emergency Management is notified of any change in the appointment.

(b) The agency emergency management liaison officer shall:

(1) Maintain close and continuous liaison with the division, as applicable;

(2) Prepare agency annexes to the state and, as applicable, local emergency operations plans which are compatible with this chapter and with guidance provided by the division;

(3) Report to the State Emergency Operations Center as required for any disaster training or exercises or emergency training or exercises;

(4) Maintain files of agency resources to include personnel, facilities, and equipment available for disaster operation;

(5) Ensure that the agency can respond promptly and cooperatively with other agencies in any disaster or major emergency situation under the overall management of the division;

(6) Advise, assist, and evaluate the capabilities of counterpart local or federal government agencies in preparing for and carrying out disaster operations;

(7) Designate personnel available for assignment to mobile support units and train such personnel in the tasks to be performed; and

(8) Perform other related functions necessary to carry out the purpose of this chapter.

(c) As conditions or situations may require or dictate, the Director of the Division of Emergency Management may request a state department, agency, or institution not currently participating in the emergency management liaison officer program to appoint an officer in accordance with this section.

(d) Nothing in subsections (a)-(c) of this section shall be interpreted as relieving or otherwise abridging the responsibility and authority of agency directors in carrying out disaster operations for which their agencies are solely responsible.

History. Acts 1973, No. 511, § 7; 1985, No. 687, § 5; 1985, No. 978, § 5; A.S.A. 1947, § 11-1940; Acts 1993, No. 1049, § 4; 1999, No. 646, § 24; 2007, No. 197, § 11; 2009, No. 165, §§ 41, 42; 2019, No. 910, §§ 5885-5888.

Amendments. The 2019 amendment substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in (a)(2) and (c); and substituted "division" for "department" in (b)(1), (b)(2), and (b)(5).

12-75-117. Interjurisdictional disaster planning and service areas.

(a)(1)(A) By executive order, the Governor may combine two (2) or more established local offices of emergency management as an interjurisdictional office of emergency management.

(B)(i) Before a combination under subdivision (a)(1)(A) of this section, the jurisdictions involved shall prepare for the Governor's approval a written mutual interjurisdictional agreement that specifies how and by whom the emergency management coordinator shall be appointed.

(ii) The interjurisdictional agreement shall also include specific provisions addressing the funding, administration, staff, and operational control of the interjurisdictional office of emergency management.

(C) The interjurisdictional office of emergency management shall meet the same minimum standards and requirements as a single-jurisdiction local office of emergency management in order to maintain eligibility for state and federal emergency management funding and program assistance.

(2) A finding of the Governor pursuant to this subsection shall be based on an assessment conducted by the Director of the Division of Emergency Management using one (1) or more factors related to the

difficulty of maintaining an efficient, effective, and economical system for disaster and emergency preparedness, mitigation, response, and recovery such as:

(A) Small or sparse population;

(B) Limitations on public financial resources severe enough to make maintenance of a separate established local office of emergency management unreasonably burdensome;

(C) Unusual vulnerability to disasters and emergencies based on geographical, geological, hydrological, meteorological, or technological disaster potential; and

(D) Other relevant conditions or circumstances.

(b)(1) If the Governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster, he or she shall take steps toward that end as may be desirable.

(2) If this action is taken with jurisdictions having enacted the Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., any resulting agreement or agreements may be considered supplemental agreements pursuant to Article VI of that compact.

(3)(A) If the other jurisdiction or jurisdictions with which the Governor proposes to cooperate pursuant to subdivisions (b)(1) and (2) of this section have not enacted that compact, then he or she may negotiate a special agreement with the jurisdiction or jurisdictions.

(B) Any agreement, if sufficient authority for the making thereof does not otherwise exist, becomes effective only after its text has been communicated to the General Assembly and neither house of the General Assembly has disapproved it by adjournment of the next ensuing session competent to consider it or within thirty (30) days of its submission, whichever is longer.

History. Acts 1973, No. 511, § 11; A.S.A. 1947, § 11-1944; Acts 1993, No. 1049, § 5; 1999, No. 646, § 25; 2007, No. 197, § 12; 2009, No. 165, § 43; 2019, No. 910, § 5889.

Amendments. The 2019 amendment substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in the introductory language of (a)(2).

12-75-118. Local and interjurisdictional offices of emergency management and services.

(a)(1) Each political subdivision within this state shall be within the jurisdiction of and served by the Division of Emergency Management and by a local office of emergency management or interjurisdictional office of emergency management.

(2) A local office of emergency management or interjurisdictional office of emergency management shall be established as a public safety agency of its respective political subdivision or political subdivisions and shall be under the direction and control of the appropriate chief executive for the purposes of mitigation of, planning for, response to,

and recovery from disaster and major emergency occurrences and for operation of public safety information networks.

(b)(1) Each county within the state and those municipalities specifically designated by the Governor shall establish, fund, and maintain an established local office of emergency management or, as necessary, make arrangements through an interjurisdictional agreement to receive emergency management.

(2) Unless a municipality has been specifically designated as a local office of emergency management, it shall receive emergency management support from the county or counties where its corporate limits are situated.

(c)(1) The Governor shall determine if additional municipal local offices of emergency management or interjurisdictional offices of emergency management are required based on an assessment conducted by the Director of the Division of Emergency Management using one (1) or more of the factors enumerated in § 12-75-117(a).

(2) The division shall publish and keep current a list of municipalities required to have local offices of emergency management or interjurisdictional offices of emergency management under this subsection.

(d) The Governor may require a political subdivision to establish and maintain a local office of emergency management or an interjurisdictional office of emergency management jointly with one (1) or more contiguous political subdivisions if he or she finds that the establishment and maintenance of any agency or participation in an agency is made necessary by circumstances or conditions that make it unusually difficult to provide disaster or major emergency prevention, preparedness, response, or recovery services under other provisions of this chapter.

(e) Each political subdivision that does not have a local office of emergency management and has not made arrangements to secure or participate in the emergency management of an agency shall have a liaison officer designated to facilitate the cooperation and protection of that political subdivision in the work of disaster and major emergency prevention, preparedness, response, and recovery.

(f)(1) The chief executive of each political subdivision shall exercise comparable authority within his or her political subdivision, and within the limits of the Arkansas Constitution and laws of the state, as the Governor exercises over the state government during disasters and major emergencies. The chief executive shall ensure to the maximum extent possible, that his or her jurisdiction meets the minimum expected capability for disaster and emergency mitigation, planning, response, and recovery.

(2) The chief executive of a political subdivision shall notify the division of the manner in which the political subdivision is providing or securing disaster planning and emergency management, provide a staffing pattern for the local office of emergency management, identify the person who heads the local office of emergency management, and furnish additional information relating thereto as the division requires.

(g)(1) Each local office of emergency management and interjurisdictional office of emergency management shall prepare and keep current an emergency operations plan for its area.

(2)(A) The emergency operations plan and all annexes must be approved by the local office of emergency management of the political subdivision and receive concurrence of the chief executive of the political subdivision.

(B) The emergency operations plan shall then be submitted to the division for approval prior to implementation.

(h) The local office of emergency management or interjurisdictional office of emergency management, as the case may be, shall prepare a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster and major emergency chain of command. This statement shall be distributed to all appropriate officials in written form.

(i)(1)(A) The county judge of each county and the chief executive of those municipal jurisdictions specifically designated as established local offices of emergency management shall appoint an emergency management coordinator for their respective local offices of emergency management.

(B) The written mutual interjurisdictional agreement between the participating jurisdictions in an interjurisdictional office of emergency management, executed under § 12-75-117(a), shall govern the appointment of the emergency management coordinator of the interjurisdictional office of emergency management.

(C) The emergency management coordinator shall act for and on behalf of the appropriate chief executive to manage and coordinate the functions, duties, and activities of the established local office of emergency management.

(2) The emergency management coordinator and such supporting staff of an established local office of emergency management as may be employed in part, or in whole, by state and federal emergency management program funds, shall be responsible for meeting all standards and requirements stipulated for funding under the programs.

(3)(A) The director shall establish and periodically review criteria necessary to ensure compliance with minimum standards and requirements.

(B) Failure to meet or maintain minimum standards and requirements or noncompliance with any part of this chapter by an established local office of emergency management may result in a decision by the director to reduce, withhold, or terminate partial or full funding for any or all local offices of emergency management programs in which the political subdivision participates or for which it may be otherwise eligible.

(j)(1) Local offices of emergency management shall operate and maintain as a minimum an information systems link with the division.

(2)(A) When authorized by the chief executive of the political subdivision and properly staffed, the local office of emergency management

may operate a public safety communications center for the purposes of coordination, dispatch, and information services for local government public safety agencies and private or volunteer agencies with an emergency management mission.

(B) The public safety communications center must be staffed by paid local office of emergency management public safety officers of the political subdivision and operate on a continuous basis if it is to serve as a law enforcement or fire dispatch and service center.

History. Acts 1973, No. 511, § 10; 1977, No. 408, § 4; 1985, No. 687, § 7; 1985, No. 978, § 7; A.S.A. 1947, § 11-1943; Acts 1993, No. 1049, § 6; 1999, No. 646, §§ 26-31; 2007, No. 197, § 13; 2009, No. 165, § 44; 2019, No. 910, §§ 5890-5894.

Amendments. The 2019 amendment substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (a)(1) and (c)(1); and substituted “division” for “department” in (c)(2), twice in (f)(2), in (g)(2)(B), and in (j)(1).

12-75-119. Statewide mutual aid system.

(a)(1) All emergency jurisdictions shall participate in the statewide mutual aid system, except as provided in subdivision (a)(2) of this section.

(2)(A) An emergency jurisdiction may elect not to participate in the statewide mutual aid system.

(B) In order to make the election, the governing body of the emergency jurisdiction shall enact a resolution declaring that the emergency jurisdiction elects not to participate in the statewide mutual aid system.

(C) The chief executive officer of the governing body shall provide a copy of the resolution to the Division of Emergency Management within ten (10) days of the enactment of the resolution.

(b) Within its own emergency jurisdiction, a participating emergency jurisdiction shall:

(1) Identify potential problems and hazards that could affect the emergency jurisdiction using an identification system common to all participating emergency jurisdictions;

(2) Conduct joint planning, intelligence sharing, and threat assessment development with contiguous participating emergency jurisdictions;

(3) Conduct joint training exercises with contiguous participating emergency jurisdictions at least one (1) time every other year;

(4) Identify and inventory, at least annually, current services, equipment, supplies, personnel, and other resources related to planning, prevention, mitigation, and response and recovery activities of the participating emergency jurisdiction; and

(5) Adopt and implement an incident management system consistent with Homeland Security Presidential Directive-5, as it existed on January 1, 2005.

(c)(1) The chief executive officer of the governing body of a participating emergency jurisdiction or his or her designee may request assistance from another participating emergency jurisdiction:

(A) To prevent, mitigate, or respond and recover from a local emergency declared under § 12-75-108; or

(B) To conduct joint training exercises.

(2)(A) A request for assistance may be made verbally or in writing.

(B) Verbal requests shall be followed with written confirmation as soon as practical.

(3)(A) A request for assistance is not required to be reported to the division in advance of or concurrent with the request.

(B) However, a request for assistance shall be reported to the division in writing as soon as practical.

(d) A participating emergency jurisdiction's obligation to provide assistance to another participating emergency jurisdiction with the prevention, mitigation, and response and recovery activities related to a declared emergency or training exercises is subject to the following conditions:

(1) There must be a local emergency declared under § 12-75-108 or a plan to conduct training exercises;

(2) A responding participating emergency jurisdiction may withhold its resources to the extent necessary to provide reasonable protection and services for its own emergency jurisdiction;

(3)(A) An emergency responder from a participating emergency jurisdiction responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of his or her home jurisdiction, including use of medical protocols, standard operating procedures, and other protocols and procedures identified by the division.

(B) However, for the duration of the assistance, the emergency responder shall be under the operational control of the participating emergency jurisdiction requesting assistance in accordance with the incident management system of that participating emergency jurisdiction; and

(4)(A)(i) Equipment and supplies belonging to a participating emergency jurisdiction responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of the responding participating emergency jurisdiction.

(ii) However, for the duration of the assistance, the equipment and supplies shall be under the operational control of the participating emergency jurisdiction requesting assistance in accordance with the incident management system of that participating emergency jurisdiction.

(B) A participating emergency jurisdiction providing assistance may donate equipment, supplies, or any other kind of asset to another participating emergency jurisdiction.

(e) If an emergency responder holds a license, certificate, or other permit issued by a participating emergency jurisdiction or the state

evidencing qualification in a professional, mechanical, or other skill and the assistance of the emergency responder is requested by a participating emergency jurisdiction, the emergency responder shall be deemed to be licensed, certified, or permitted in the participating emergency jurisdiction requesting assistance for the duration of the declared emergency or training exercises, subject to any limitations and conditions imposed by the chief executive officer of the governing body of the participating emergency jurisdiction receiving the assistance.

(f)(1)(A) A participating emergency jurisdiction receiving assistance under the statewide mutual aid system shall reimburse a participating emergency jurisdiction responding to a request for assistance for all expenses associated with providing the assistance other than regular salaries and benefits.

(B) A request for reimbursement shall be made in accordance with procedures developed by the Arkansas Homeland Security Advisory Group and adopted by the division as a rule under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(C) The division shall not provide reimbursement for expenses associated with training exercises except in accordance with applicable rules.

(2)(A)(i) If a participating emergency jurisdiction disagrees with another participating emergency jurisdiction regarding reimbursement, the participating emergency jurisdiction asserting the dispute shall notify in writing the chief executive officer of the governing body of the participating emergency jurisdiction with which the dispute exists.

(ii) The notification shall be sent by certified mail, return receipt requested.

(B)(i) The participating emergency jurisdictions involved in the dispute shall make every effort to resolve the dispute within thirty (30) days of receipt of the written notice by the noncomplaining participating emergency jurisdiction.

(ii) In the event that the dispute is not resolved within ninety (90) days of receipt of written notice of the dispute, either participating emergency jurisdiction may request binding arbitration.

(iii) Arbitration conducted under this subdivision (f)(2)(B) shall be conducted under the commercial arbitration rules of the American Arbitration Association, as in effect on January 1, 2005.

(g)(1) An emergency responder who assists a participating emergency jurisdiction that is not the emergency responder's home emergency jurisdiction and who sustains injury or death in the course of, and arising out of, the emergency responder's employment is entitled to all applicable benefits normally available from the emergency responder's home emergency jurisdiction.

(2) An emergency responder may receive additional state benefits as provided by law for death in the line of duty.

(h)(1) All activities performed under this section are deemed to be governmental functions.

(2)(A) For the purposes of liability, an emergency responder acting under the operational control of a participating emergency jurisdiction requesting assistance is deemed to be an employee of the participating emergency jurisdiction requesting assistance and exercising operational control.

(B) Except in cases of willful misconduct, gross negligence, or bad faith, neither the participating emergency jurisdiction providing assistance nor its employees shall be liable for the death of or injury to persons or for damage to property when complying or attempting to comply with the request of a participating emergency jurisdiction for assistance under the statewide mutual aid system.

(i) This section shall not be construed to prohibit a participating emergency jurisdiction from entering into interjurisdictional agreements with one (1) or more other emergency jurisdictions or emergency services entities and shall not affect any other agreement to which an emergency jurisdiction may be a party.

History. Acts 1973, No. 511, § 12; 1985, No. 687, § 8; 1985, No. 978, § 8; A.S.A. 1947, § 11-1945; Acts 1993, No. 1049, § 7; 1999, No. 646, § 32; 2001, No. 1278, § 5; 2005, No. 1179, § 2; 2019, No. 910, §§ 5895-5898.

substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (a)(2)(C); and substituted “division” for “department” in (c)(3)(A), (c)(3)(B), (d)(3)(A), (f)(1)(B), and (f)(1)(C).

Amendments. The 2019 amendment

12-75-126. Public safety officers.

(a) No person shall be employed or associated in any capacity in any emergency management organization established under this chapter who:

(1) Advocates or has advocated a change by force or violence in the constitutional form of the United States Government or of this state or the overthrow of any government in the United States by force or violence; or

(2) Has pleaded guilty or nolo contendere to or been found guilty of any subversive act against the United States or is under indictment or information charging any subversive act against the United States.

(b) The Director of the Division of Emergency Management and persons he or she may designate from the state and local offices of emergency management staffing patterns shall be sworn public safety officers as defined and limited by this chapter.

(c)(1) Before entering upon his or her duties, each person who is selected to serve as a public safety officer in an organization of emergency management shall take an oath in writing before a person authorized to administer oaths in this state.

(2) The oath required in subdivision (c)(1) of this section shall be substantially as follows:

“I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of

Arkansas, and that I will faithfully discharge the duties of the office of Public Safety Officer, upon which I am now about to enter.”

(d)(1)(A) The director may determine what constitutes the Division of Emergency Management uniform for division personnel.

(B) The chief executive of a local office of emergency management may determine what constitutes a uniform for his or her jurisdiction.

(2) The uniform may include a badge or identification card, or both, of appropriate design and dimensions to identify local office of emergency management personnel as bona fide emergency management workers within their jurisdiction and division personnel as bona fide emergency workers for the state.

(e) Any person issued or provided a badge, identification, or uniform described in subsection (d) of this section shall wear, carry, or display it at such times and places as shall be designated or required by the chief executive of the local jurisdiction for local office of emergency management personnel and by the director for division personnel.

History. Acts 1973, No. 511, § 21; 1985, No. 687, § 9; 1985, No. 978, § 9; A.S.A. 1947, § 11-1954; Acts 1999, No. 646, § 33; 2007, No. 197, § 17; 2019, No. 910, §§ 5899-5902.

Amendments. The 2019 amendment substituted “Division of Emergency Man-

agement” for “Arkansas Department of Emergency Management” in (b); substituted “the Division” for “an Arkansas Department” in (d)(1)(A); and substituted “division” for “department” in (d)(1)(A), (d)(2), and (e).

12-75-129. Emergency responders — Workers’ compensation benefits.

(a)(1) A person appointed and regularly enrolled in an accredited emergency management organization and covered by this chapter is limited to the Workers’ Compensation Law, § 11-9-101 et seq., for benefits payable for an injury to or death of the person, if:

(A) The person is regularly employed by a local government or the state; and

(B) The injury or death occurs while the person is:

(i) Actually engaged in emergency management duties either during training or during a period of emergency; and

(ii) Subject to the order or control of or pursuant to a request of and under the supervision and instruction of the:

(a) Governor;

(b) Division of Emergency Management; or

(c) Chief executive or the designated director of a department, county, or an accredited local government unit making use of emergency management volunteer workers.

(2) If a person described in subdivision (a)(1) of this section is a qualified emergency responder of the state or a local office of emergency management, then recovery is limited as provided in this section.

(b) The remedy provided in this section shall be the exclusive remedy as against the state and political subdivisions thereof.

(c)(1) For the purpose of workers' compensation coverage in cases of injury to or death of an individual, all duly qualified emergency responders shall be deemed local government or state employees and shall receive compensation, and their survivors shall receive death benefits in like manner as regular local government or state employees for injury or death arising out of and in the course of their activities as emergency responders.

(2) If an emergency responder is injured or killed while subject to the order or control of a local government, compensation and benefits shall be charged against the applicable local government's experience rate and paid from the appropriate state workers' compensation fund.

(3) If the emergency responder was under the order or control of a state agency when injured or killed, compensation and benefits shall be charged against the experience rate of the state agency who exercised order or control at the time of injury or death and paid from the appropriate state workers' compensation fund.

(d)(1) For the purpose of subsection (c) of this section, the weekly compensation benefits for such emergency responders who receive no monetary compensation for services rendered as such workers shall be calculated based upon the wages received from their regular or usual employments, the same as a regular local or state employee, with respect to injury, disability, or death.

(2) The reimbursement per day for approved out-of-pocket expenses incurred in response to an emergency situation, such as gasoline, oil, uniforms, required equipment, and other items is not considered monetary compensation for the volunteer emergency responder.

(e)(1) In the event that any person who is entitled to receive benefits through the application of subsection (c) of this section receives, in connection with the injury, disability, or death giving rise to such entitlement, benefits under an act of the United States Congress or federal program providing benefits for emergency responders or their survivors, then the benefits payable under this section shall be reduced to the extent of the benefits received under such other act or program.

(2) Any person who performs the duties of a member or trainee as an adjunct to his or her regular employment and who otherwise would be entitled to receive workers' compensation benefits for his or her injury, disability, or death, if injured in the performance of such duties, shall be deemed to have been injured, disabled, or killed in the course of his or her regular employment.

(f) An emergency responder shall be deemed duly registered and qualified when he or she is a member of and has on file in either a local office of emergency management or in the division the following information:

- (1) Name and address;
- (2) Date enrolled; and
- (3) Class of service assigned.

(g) Payments and death and disability benefits as provided in this section shall be made from the Workers' Compensation Revolving Fund for state employees.

History. Acts 1973, No. 511, § 22; 1977, No. 408, § 6; 1981, No. 891, § 5; A.S.A. 1947, § 11-1955; Acts 1999, No. 646, §§ 35, 36; 2007, No. 197, § 20; 2009, No. 165, §§ 53-55; 2019, No. 910, §§ 5903, 5904.

Amendments. The 2019 amendment

substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (a)(1)(B)(ii)(b); and substituted “division” for “Arkansas Department of Emergency Management” in the introductory language of (f).

12-75-131. Disaster relief pay.

(a)(1) The Division of Emergency Management is authorized to provide special compensation to certain employees for each full pay period of eighty (80) hours worked in a job which requires the provision of on-site emergency disaster relief services in cases of wartime, human-made, or natural disasters.

(2) This disaster relief pay covers employees who may be exposed to hazardous or disastrous conditions during the performance of their job duties.

(3)(A) The rate of pay will be five and one-half percent (5.5%) above the regular authorized pay or rate of pay.

(B) Payment will be controlled through personnel actions by the Director of the Division of Emergency Management.

(b) The rate of pay for individuals who work less than a full pay period of eighty (80) hours or transfer to other work areas not defined in this section, or both, will not receive any enhanced rate of pay for that or subsequent pay periods.

(c) A monthly report shall be made to the Legislative Council describing all payments made to employees under the provisions of this section.

History. Acts 1995, No. 1028, § 14; 1999, No. 646, §§ 37, 38; 2019, No. 910, §§ 5905, 5906.

Amendments. The 2019 amendment

substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (a)(1) and (a)(3)(B).

12-75-132. Arkansas Homeland Security Advisory Group — Created.

(a) There is created an advisory body to the Division of Emergency Management, to be known as the “Arkansas Homeland Security Advisory Group”.

(b) The advisory group shall consist of representatives of federal, state, and local agencies and professional associations as determined by the Director of the Division of Emergency Management. The advisory group shall include, at a minimum, representatives of the following:

- (1) Division of Emergency Management;
- (2) The Arkansas Ambulance Association;
- (3) Arkansas Association of Chiefs of Police;
- (4) Arkansas Association of Fire Chiefs;
- (5) Arkansas Citizen Corps Point of Contact;
- (6) Division of Environmental Quality;

- (7) Department of Health;
- (8) Arkansas Emergency Management Association, Inc.;
- (9) Arkansas Highway Police Division of the Arkansas Department of Transportation;
- (10) Department of Agriculture;
- (11) Arkansas Municipal League;
- (12) National Guard;
- (13) 61st Civil Support Team of the Arkansas National Guard;
- (14) Arkansas Sheriffs' Association;
- (15) Division of Arkansas State Police;
- (16) County Judges Association of Arkansas;
- (17) Centers for Disease Control and Prevention;
- (18) Division of Information Systems;
- (19) Federal Bureau of Investigation;
- (20) Health Resources and Services Administration of the United States Department of Health and Human Services;
- (21) United States Secret Service;
- (22) United States Attorney for the Eastern District of Arkansas; and
- (23) United States Attorney for the Western District of Arkansas.

(c) A representative of the Division of Emergency Management shall serve as chair of the advisory group.

(d) The advisory group shall develop and maintain comprehensive guidelines and procedures that address requirements for the following:

- (1) Requesting and providing assistance through the statewide mutual aid system;
- (2) Recordkeeping for all participating emergency jurisdictions;
- (3) Reimbursement for assistance provided through the statewide mutual aid system; and
- (4) Any other process necessary to implement the statewide mutual aid system.

(e) The advisory group shall meet as often as required to:

- (1) Review the progress and status of statewide emergency programs;
- (2) Assist in developing methods to track and evaluate activation of the statewide mutual aid system; and
- (3) Examine issues facing emergency jurisdictions regarding the implementation and management of the statewide mutual aid system.

(f)(1) The advisory group shall prepare at least annually a report on the condition and effectiveness of the statewide mutual aid system and other emergency programs in the state.

(2) The report shall include recommendations with regard to correcting any deficiencies identified by the advisory group in the statewide mutual aid system.

(3) The advisory group shall submit the report annually to the director and to the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs.

History. Acts 2005, No. 1179, § 3; 2007, No. 751, § 6; 2009, No. 165, § 56; 2017, No. 707, § 21; 2019, No. 910, §§ 5907, 5908.

Amendments. The 2017 amendment substituted “Department of Transportation” for “State Highway and Transportation Department” in (b)(9).

The 2019 amendment substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (a), in the introductory language of (b), in (b)(1), in (c), and in (f)(3); added “The” in (b)(2); substituted

“Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (b)(6); substituted “Department of Agriculture” for “Arkansas Livestock and Poultry Commission” in (b)(10); substituted “Arkansas National Guard” for “National Guard” in (b)(13); substituted “Division of Arkansas State Police” for “Department of Arkansas State Police” in (b)(15); deleted (b)(16) and redesignated the remaining subdivisions accordingly; and substituted “Division of Information Systems” for “Department of Information Systems” in (b)(18).

CHAPTER 78

EMERGENCY COMMUNICATIONS ACT OF 1991

SECTION.

12-78-105. Implementation — Equipment purchases.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-78-105. Implementation — Equipment purchases.

(a)(1) From funds appropriated therefor, the Division of Emergency Management shall provide to eligible local offices of emergency management and key state agencies assigned an emergency role under the State of Arkansas Emergency Operations Plan matching grants not to exceed fifty percent (50%) of the cost of the acquisition of the emergency warning and communications equipment.

(2) The grant shall be awarded only for the acquisition of equipment for which the Director of the Division of Emergency Management has granted specific approval.

(b) The equipment shall be purchased only in accordance with the current approved purchasing procedures of the county or city having authority over the local office of emergency management or the ap-

proved purchasing procedures for the governmental agencies or private sector agencies.

History. Acts 1991, No. 554, § 4; 1999, No. 646, § 44; 2019, No. 910, § 5909.

Amendments. The 2019 amendment substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (a)(1) and (a)(2).

CHAPTER 79

ARKANSAS HAZARDOUS AND TOXIC MATERIALS
EMERGENCY NOTIFICATION ACT

SECTION.

12-79-103. Definitions.

12-79-104. HAZMAT incident or accident reporting system.

SECTION.

12-79-106. Penalties.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-79-103. Definitions.

As used in this chapter:

(1) [Repealed.]

(2) “Fixed facility” means any refinery, factory, storage site, assembly plant, warehouse, wholesaler, retailer, or other facility which receives, stores, processes, or ships hazardous and toxic materials;

(3) “Hazardous and toxic materials” means:

(A) Those substances, except natural gas, manufactured, refined, or found in their natural state which, when released into the environment, by any means, have an immediate or potential threat to human, animal, or plant life and meet other criteria established under federal regulations, guidelines, or laws defining hazardous and toxic substances in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce, and which is designated as “hazardous material” in regulations prescribed by the United States Secretary of Transportation under Title 49 of the Code of Federal Regulations; and

(B) Any other substance or pollutant designated by rules of the Director of the Division of Emergency Management promulgated under this chapter;

(4) “HAZMAT” means the abbreviation of “hazardous and toxic materials”;

(5) “Incident” or “accident” means the spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of hazardous and toxic materials into the environment;

(6) “System for notification” means those communications facilities currently existing, or that may be later established, for direction, warning, and control of emergency response and recovery forces at the federal, state, and local levels;

(7) “Transport” means the movement of any hazardous and toxic material regardless of the mode of transportation from one place to another place and any loading, unloading, and storage incidental thereto; and

(8) “Transporter” means any person, firm, association, partnership, corporation, or other legal entity who transports or ships in a motor vehicle, rail freight car, freight container, cargo tank, rail tank car, pipeline other than a natural gas pipeline, aircraft, vessel, or other means of transportation any hazardous and toxic materials as a common carrier, contract carrier, or carrier for private use.

History. Acts 1991, No. 917, § 3; 1999, No. 646, § 46; 2019, No. 315, § 972; 2019, No. 910, § 5910.

by No. 315 substituted “rules” for “regulations” in (3)(B).

The 2019 amendment by No. 910 repealed (1).

Amendments. The 2019 amendment

12-79-104. HAZMAT incident or accident reporting system.

(a) The Director of the Division of Emergency Management shall:

(1) In cooperation with the State Emergency Response Commission, establish a HAZMAT incident or accident reporting system within the State Emergency Operations Center for disseminating information to the appropriate agencies and emergency first responders for any release of a hazardous and toxic material that might present either an immediate or potential threat to the safety, health, and welfare of the public; and

(2) Operate and maintain on a continuing basis emergency direction, control, and warning systems sufficient to meet the minimum requirements of this chapter.

(b) The HAZMAT incident or accident reporting systems shall meet the minimum federal requirements specified in federal regulations and guidelines for hazardous and toxic materials emergency reporting and shall operate within the provisions established under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., and the State of Arkansas Emergency Operations Plan to provide the most expeditious and practical means to notify state, local, and private sector entities assigned an emergency response or recovery role under this chapter.

(c) Each agency, office, bureau, or commission of the State of Arkansas or its political subdivisions having a role or responsibility for HAZMAT planning, response, recovery, or mitigation, or providing public safety services or having regulatory or oversight authority shall establish guidelines and procedures to ensure prompt and accurate reporting of any accident, incident, or known or suspected release of toxic or hazardous materials within the State of Arkansas in violation of any state or federal environmental or health protective statutes, regulations, rules, or guidelines.

History. Acts 1991, No. 917, § 4; 1999, No. 646, § 47; 2019, No. 315, § 973; 2019, No. 910, § 5911.

Amendments. The 2019 amendment by No. 315 inserted “rules” following “regulations” in (c).

The 2019 amendment by No. 910 substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in the introductory language of (a).

12-79-106. Penalties.

Any person who pleads guilty or nolo contendere to or is found guilty of violating any provisions of this chapter or any rule promulgated hereunder shall be guilty of a misdemeanor and be fined not more than five hundred dollars (\$500) per day of violation or imprisoned for not more than one (1) year, or both.

History. Acts 1991, No. 917, § 6; 2019, No. 315, § 974.

Amendments. The 2019 amendment substituted “rule” for “regulation”.

CHAPTER 80
EARTHQUAKE RESISTANT DESIGN FOR PUBLIC
STRUCTURES

SECTION.

12-80-104. Design requirements.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 22 and 23, § 2: May 23, 2016. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that seismic design requirements found in the Arkansas Fire Prevention Code are overly restrictive; that the nature of these restrictions require businesses to expend significant resources; and that this act is immediately necessary to correct this restriction, to ease the burden on businesses considering construction in Arkansas, and

to promote local economic development efforts. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

12-80-104. Design requirements.

(a)(1) Neither the state or any county, city, township, village, or private entity shall construct, add to, alter, retrofit, or remodel any public structure unless the structural elements are designed to resist the anticipated forces of the designated seismic zone in which the structure is located.

(2)(A) Design loads and seismic design requirements shall be, as a minimum, those listed in the Chapter of Structure Loads and referenced chapters from the Arkansas Fire Prevention Code.

(B)(i) Buildings or other structures classified as Category I or Category II occupancies as described in Table 1604.5, Arkansas Fire Prevention Code, Volume II, 2012 Edition, or in American Society of Civil Engineers Standard 7-10, Table 1.5-1, that are constructed for manufacturing or industrial occupancy or for public works may be designed using the mapped ground motion response accelerations for a ten-percent probability of exceeding the design seismic event in a fifty-year period based on United States Geological Survey data, instead of the mapped ground motion response accelerations for a two-percent or other probability of exceeding the design seismic event in a fifty-year period as set out in the Arkansas Fire Prevention Code, 2012 Edition, or subsequent editions of the Arkansas Fire Prevention Code if the alternate design standard has been properly adopted by ordinance in the locality in which the building or other structure is to be constructed.

(ii) Under subdivision (a)(2)(B)(i) of this section, SDS shall equal SMS and SD1 shall equal SM1 in lieu of the two-thirds adjustment indicated in Equation 16-39 and Equation 16-40 of the Arkansas Fire Prevention Code, Volume II, 2012 Edition, and the design seismic base shear V in any given direction shall be not less than that determined in accordance with Section 1607, Standard Building Code, 1997 Edition.

(iii) As used in subdivision (a)(2)(B)(ii) of this section, “SDS”, “SMS”, “SD1”, and “SM1” mean the same as defined in the Arkansas Fire Prevention Code, Volume II, 2012 Edition.

(b)(1) All construction plans for public buildings and structures shall comply with the Arkansas Architectural Act, § 17-15-101 et seq.

(2) The design of structural elements of public buildings and structures shall be performed by a professional engineer as defined in § 17-30-101 who is competent in seismic structural design according to current standards of technical competence.

(3) The structural plans of each public building or structure shall bear the engineer’s Arkansas seal and signature and a statement of reference to what seismic zone the structure is designed to satisfy.

(4) Educational and institutional structures in Seismic Hazard Exposure Group III shall have nonstructural interior components, such as bookshelves, light fixtures, shelving, hot water tanks, oxygen tanks, etc., to meet earthquake resistant guidelines.

History. Acts 1991, No. 1100, § 4; 1999, No. 1485, § 3; 2011, No. 897, § 10; 2016 (3rd Ex. Sess.), No. 22, § 1; 2016 (3rd Ex. Sess.), No. 23, § 1.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 22 and 23 added (a)(2)(B).

CHAPTER 82

ARKANSAS SERC/LEPC ACT

SECTION.

12-82-104. State Emergency Response Commission.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-82-104. State Emergency Response Commission.

(a)(1) The State Emergency Response Commission shall be composed of:

(A) The executive heads of the Department of Health, the Division of Environmental Quality, the Division of Arkansas State Police, the Division of Emergency Management, the Division of Labor, the Arkansas Fire Training Academy, and the Arkansas Department of Transportation, and the Adjutant General, or their designated representatives;

(B) One (1) individual representing the local emergency planning committees;

(C) Two (2) individuals from regulated entities;

(D) One (1) individual from an unregulated entity with knowledge of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.; and

(E) One (1) private citizen to represent the public at large.

(2)(A) The chair of the commission shall be elected by the members of the commission and shall serve for a two-year period.

(B)(i) Each commission member designated in subdivisions (a)(1)(B)-(E) of this section shall serve for a term of four (4) years and shall serve at the pleasure of the Governor.

(ii) The term of any member designated in subdivisions (a)(1)(B)-(E) of this section may be extended for a period of one (1) year to prevent the terms of all members from expiring in the same year.

(b) The commission shall establish local emergency planning committees within the authorized and established local emergency services jurisdiction of the state as prescribed in §§ 12-75-101 — 12-75-129.

(c) Local emergency planning committee membership, functions, and duties shall be in accordance with the federal guidelines prescribed in the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.

(d) The commission may promulgate such rules and guidelines as deemed necessary or desirable:

(1) For the training and certification of public emergency response and recovery personnel, as defined in this chapter;

(2) To ensure compliance with the appropriate federal guidelines and law governing public emergency response and recovery personnel; and

(3) To adequately administer the requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq., in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) Any person who is denied training certification under this chapter may appeal such decision to the commission by notifying the commission in writing within fifteen (15) days after the denial of certification.

History. Acts 1993, No. 567, § 4; 1995, No. 626, § 1; 1999, No. 646, § 48; 1999, No. 1164, § 121; 2017, No. 707, § 22; 2019, No. 315, § 975; 2019, No. 910, §§ 3029, 5912.

Amendments. The 2017 amendment substituted “Department of Transportation” for “State Highway and Transportation Department” in (a)(1)(A).

The 2019 amendment by No. 315 deleted “regulations” following “rules” in the introductory language of (d).

The 2019 amendment by No. 910, in (a)(1)(A), substituted “executive heads” for “directors” and substituted “Division of Environmental Quality, the Division of Arkansas State Police, the Division of Emergency Management, the Division of Labor” for “Arkansas Department of Environmental Quality, the Department of Arkansas State Police, the Arkansas Department of Emergency Management, the Department of Labor”.

CHAPTER 83

EMERGENCY VOLUNTEER RESERVE ACT OF 1985

SECTION.

12-83-102. Policy and purpose.

12-83-104. Recruitment — Service — Deployment — Discharge.

SECTION.

12-83-105. Reimbursement.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by

the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should be-

come effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

12-83-102. Policy and purpose.

Because the potential for a natural, technological, or national emergency-related disaster of catastrophic proportions and devastating impact requires extensive use of highly trained and skilled personnel experienced in disaster response and recovery actions, and whereas such needs and requirements may exceed the normal forces available to the State of Arkansas to prevent death and injury to its citizens and extensive loss of property, it is found and declared necessary:

(1) To establish within the Division of Emergency Management an Emergency Volunteer Reserve Cadre of persons trained and experienced in certain functions related to disaster response and recovery operations;

(2) To provide authority to the Director of the Division of Emergency Management to call the emergency volunteer reserve personnel into active service upon declaration of a state of disaster emergency by the Governor or the President of the United States or when, in the opinion of the director, a pending natural, technological, or national emergency may require the immediate services of the personnel;

(3) To provide the authority to the director to reimburse members of the cadre, when called to active duty, for out-of-pocket expenses for lodging, food, and travel at the current rate and under the provisions for reimbursement applicable to state employees of like grade and responsibility during the period of active service to the state; and

(4) To provide to the cadre the same privileges and immunities as are applicable to state employees when performing their duties on behalf of the state.

History. Acts 1995, No. 115, § 2; 1995, No. 169, § 2; 1999, No. 646, § 49; 2019, No. 910, § 5913.

substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in (1) and (2).

Amendments. The 2019 amendment

12-83-104. Recruitment — Service — Deployment — Discharge.

(a)(1) The Division of Emergency Management shall establish a system to recruit personnel with special skills or experience related to emergency response and recovery operations and provide initial familiarization training and periodic proficiency training as necessary for members of the Emergency Volunteer Reserve Cadre to ensure their

readiness for immediate deployment for response and recovery activities.

(2) The personnel shall be enrolled as emergency responder volunteers in accordance with § 12-75-129, and shall be eligible for immunities and exemptions in accordance with § 12-75-128 and workers' compensation benefits in accordance with § 12-75-129.

(b) The division shall establish an administrative management system to recruit and maintain qualified personnel and establish a fiscal management system to ensure prompt and reasonable reimbursement of authorized expenses.

(c) Persons recruited for the cadre may provide, but are not limited to providing, services in disaster application centers, disaster field offices, disaster survey teams, and fixed or mobile emergency operating centers and communications facilities, and may utilize other specific skills for which they may qualify or be trained to assume.

(d) Members are subject to deployment within the State of Arkansas and may, upon invocation of mutual aid agreements with other states, accompany state employees at host state or federal expense on out-of-state services.

(e) When called into active service by the Director of the Division of Emergency Management, members of the cadre shall be under the operational and administrative management of the division and such employees of that office who may be designated to supervise their duties.

(f)(1) The director shall have the authority to immediately relieve members of the cadre for actual misconduct, perceived incompetence, or inability to perform their assigned duties.

(2) When relieved by authority other than the director's, members shall have the right of appeal to the director for reinstatement.

History. Acts 1995, No. 115, § 4; 1995 No. 169, § 4; 1999, No. 646, §§ 51-53; 2009, No. 165, § 59; 2019, No. 910, §§ 5914-5916.

substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in (a)(1) and (e); and substituted "division" for "department" in (b) and (e).

Amendments. The 2019 amendment

12-83-105. Reimbursement.

(a)(1) Any persons seeking enrollment into the Emergency Volunteer Reserve Cadre shall be notified that no salary, retainer, emoluments, or other monetary reimbursement shall be made for their services, except reimbursement for food, lodging, and travel utilizing a privately owned vehicle when so authorized by the Director of the Division of Emergency Management.

(2) Reimbursement shall be made in accordance with current state travel rules and at the prescribed rates in effect at the time of their services.

(b) However, this shall not disqualify any persons from future employment as emergency hires or full-time employees when hired

through the prescribed state employment procedures applicable to the positions they are seeking.

History. Acts 1995, No. 115, § 4; 1995, No. 169, § 4; 2019, No. 315, § 976; 2019, No. 910, § 5917.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a)(2).

The 2019 amendment by No. 910 substituted “Division of Emergency Management” for “Arkansas Department of Emergency Management” in (a)(1).

CHAPTER 86

EMERGENCY PREPAREDNESS

SUBCHAPTER.

2. EMERGENCY PREPAREDNESS FOR CHILD CARE FACILITIES ACT.

SUBCHAPTER 2 — EMERGENCY PREPAREDNESS FOR CHILD CARE FACILITIES ACT

SECTION.

12-86-204. Division of Emergency Management policies.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-86-204. Division of Emergency Management policies.

The Director of the Division of Emergency Management shall coordinate efforts with other state agencies and appropriate organizations to:

(1) Disseminate county-level lists of all licensed childcare facilities and all known license-exempt childcare facilities, including without limitation physical address, maximum capacity, hours of operation, and emergency contact information, to county governments for use in search and rescue during emergencies and disasters;

(2) Share a periodically updated statewide list of designated emergency shelters, both local shelters and mass evacuation shelters, with the Division of Child Care and Early Childhood Education, state child

care subsidy program, and state child and adult nutrition program when the list is available; and

(3) Include all licensed childcare facilities and all known license-exempt childcare facilities where critical facilities such as schools, hospitals, and nursing homes are mentioned in the state response plan, emergency preparedness exercises, or other guiding documents and activities.

History. Acts 2007, No. 816, § 4; 2009, No. 165, § 61; 2019, No. 910, § 5918.

Amendments. The 2019 amendment substituted “Division of Emergency Man-

agement” for “Arkansas Department of Emergency Management” in the introductory language.

CHAPTER 88

BUSINESS RAPID RESPONSE TO STATE DISASTERS FACILITATION ACT

SECTION.

12-88-103. Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

12-88-103. Definitions.

As used in this chapter:

(1) “Critical infrastructure” means property and equipment, including without limitation buildings, offices, lines, poles, pipes, and structures, owned or used by the following:

(A) A communications network;

(B) An electric generation, transmission, or distribution system;

(C) A gas distribution system;

(D) A water pipeline; or

(E) A support facility that is related to an entity listed in subdivisions (1)(A)–(D) of this section and services multiple customers or persons;

(2) “Declared state disaster or emergency” means a disaster or emergency event:

(A) For which a Governor's executive order or proclamation has been issued;

(B) For which a presidential declaration of a major disaster or emergency has been issued; and

(C) Within the state:

(i) For which a good faith response effort is required; and

(ii) That the Director of the Division of Emergency Management designates as a disaster or emergency upon request of and notification by a registered business;

(3) "Disaster-related or emergency-related work" means repairing, renovating, installing, building, and rendering services or other business activities that relate to critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency;

(4) "Disaster response period" means a period that begins ten (10) days before the first day of the earlier of the Governor's executive order or proclamation, the President's declaration of a major disaster or emergency, or designation by the director and extends until the later of sixty (60) calendar days after the declared state disaster or emergency or the date authorized by the director;

(5)(A) "Out-of-state business" means a business entity:

(i) That, except for providing disaster-related or emergency-related work:

(a) Has no presence in this state;

(b) Conducts no business in this state; and

(c) Has no registration, tax filing, or nexus in this state during the tax year immediately preceding the declared state disaster or emergency; and

(ii) The services of which are requested by a registered business, a state government, or a local government for purposes of performing disaster-related or emergency-related work in the state.

(B) "Out-of-state business" includes without limitation:

(i) A business entity that is affiliated with a registered business in the state solely through common ownership; and

(ii) The employees of the business entity;

(6) "Out-of-state employee" means an individual who does not work in the state except for providing disaster-related or emergency-related work during a disaster response period; and

(7) "Registered business" means a business entity that is registered to do business in Arkansas before the relevant declared state disaster or emergency occurs.

History. Acts 2015, No. 864, § 1; 2019, No. 910, § 5919.

Amendments. The 2019 amendment

substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in (2)(C)(ii).

TITLE 13

LIBRARIES, ARCHIVES, AND CULTURAL RESOURCES

CHAPTER.

2. LIBRARIES.
3. HISTORY COMMISSIONS.
4. PUBLIC RECORDS MANAGEMENT AND ARCHIVES.
5. MUSEUMS.
6. ARCHEOLOGICAL RESEARCH.
7. HISTORIC PRESERVATION.
8. ARKANSAS ARTS COUNCIL.
9. ARKANSAS ENTERTAINERS HALL OF FAME BOARD. [REPEALED.]
10. ARKANSAS MEDAL OF HONOR COMMISSION.
11. SENIOR ARKANSANS HALL OF FAME.
12. ARKANSAS FORESTERS HALL OF FAME.
13. ARKANSAS CIVIL WAR SESQUICENTENNIAL COMMISSION.
14. HERITAGE TRAILS SYSTEM ACT.
15. ARKANSAS DELTA MUSIC TRAIL ACT.

CHAPTER 2

LIBRARIES

SUBCHAPTER.

2. ARKANSAS STATE LIBRARY.
10. ARKANSAS DIGITAL LIBRARY ACT.

SUBCHAPTER 2 — ARKANSAS STATE LIBRARY

SECTION.

- 13-2-202. Effect of subchapter.
- 13-2-203. Arkansas State Library created.
- 13-2-204. State Librarian.
- 13-2-205. State Library Board.

SECTION.

- 13-2-206. Meetings of board.
- 13-2-207. Powers and duties generally.
- 13-2-209. Agreements with Arkansas State Archives and Secretary of State.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely

and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain

agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128; July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections

of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-2-202. Effect of subchapter.

(a)(1) Nothing in this subchapter shall repeal, alter, or change the duties and responsibilities of the Secretary of State to maintain a library of official books, records, and documents under the provisions of § 13-2-301 et seq. and other laws of this state which impose specific duties upon the Secretary of State.

(2) The library maintained by the Secretary of State under the provisions of § 13-2-301 et seq. shall be designated as the Library of the Secretary of State, and the Secretary of State shall be librarian thereof.

(b) Nothing in this subchapter shall repeal, alter, or change the powers, duties, and responsibilities of the Arkansas State Archives as defined by law.

History. Acts 1979, No. 489, § 10; A.S.A. 1947, § 6-307n; Acts 2016 (3rd Ex. Sess.), No. 2, § 97; 2016 (3rd Ex. Sess.), No. 3, § 97.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” in (b).

13-2-203. Arkansas State Library created.

(a) There is created and established within the Department of Education a division to be known as the Arkansas State Library.

(b) The library shall function within the Department of Education in the same manner as provided by agencies transferred pursuant to a cabinet-level transfer under § 25-43-105 and which shall be adequately funded and properly housed in a designated building at the seat of state government.

History. Acts 1979, No. 489, §§ 1, 2; A.S.A. 1947, § 6-301; Acts 2019, No. 910, § 2231.

Amendments. The 2019 amendment, in (b), substituted “Department of Educa-

tion” for “department” and “pursuant to a cabinet-level transfer under § 25-43-105” for “to the principal Department of government by a type 1 transfer under the provisions of § 25-2-104”.

13-2-204. State Librarian.

(a) The Arkansas State Library shall be headed by the State Librarian, to be appointed by the State Library Board, in consultation with the Secretary of the Department of Education. The State Librarian shall serve for such time and for such terms as the board may prescribe.

(b) The State Librarian shall be a person of good professional standing and reputation, holding at least a master's degree from a graduate school of library science accredited by the American Library Association, and shall have had experience in library administration in academic, public, school, or special libraries.

(c) The State Librarian shall have charge of the work of the library and shall perform such other duties as the board may prescribe.

History. Acts 1979, No. 489, §§ 1, 2; inserted "in consultation with the Secretary of the Department of Education" in A.S.A. 1947, § 6-301; Acts 2019, No. 910, § 2232. (a).

Amendments. The 2019 amendment

13-2-205. State Library Board.

(a) There is created the State Library Board.

(b)(1) The board shall consist of seven (7) members, to be appointed by the Governor subject to confirmation by the Senate.

(2) The members of the board shall be appointed by the Governor for reasons of their interest in libraries and in statewide library development.

(3)(A) One (1) member of the board shall be appointed from each of the four (4) congressional districts of this state in existence at the time of appointment, and three (3) members shall be selected from the state at large.

(B) However, no more than two (2) members of the board shall be appointed from any one (1) congressional district.

(4)(A) All members appointed to the board shall serve terms of seven (7) years and until their successors are appointed and qualified.

(B) No board member shall be appointed to serve for more than two (2) consecutive full terms.

(c) Vacancies occurring on the board due to death, resignation, or other reason shall be filled by appointment of the Governor for the remainder of the unexpired portion of the term in the same manner as for the initial appointment.

(d)(1) Members of the board shall receive per diem at the rate established by law for attending board meetings or for performing other services required of members in their official capacity as members of the board.

(2) In addition, members shall be entitled to mileage at the rate provided by law for official travel of state employees for each mile in traveling from their place of residence to meetings of the board and returning or for attending to other authorized business of the board.

History. Acts 1979, No. 489, § 2; A.S.A. 1947, § 6-301; Acts 1997, No. 250, § 73; 1997, No. 1152, § 1; 2017, No. 540, § 12. for “on July 1, 1979” in (b)(3)(A); and substituted “consecutive full terms” for “consecutive terms, including partial terms” in (b)(4)(B).

Amendments. The 2017 amendment substituted “at the time of appointment”

13-2-206. Meetings of board.

(a) The State Library Board shall meet at such place or places and shall keep such records as it may deem appropriate.

(b) The board shall select annually a chair and any other officers as it deems necessary.

(c) The board shall adopt policies and bylaws governing its meetings, the conduct of its business, and the business of the Arkansas State Library.

(d) The State Librarian shall serve as secretary of the board, but without a vote thereon, and shall attend all of the board meetings and keep records thereof.

(e) A majority of the board’s members shall constitute a quorum for the transaction of business, and all business transacted by the board shall be by majority vote of its members.

History. Acts 1979, No. 489, §§ 1, 3; A.S.A. 1947, §§ 6-301, 6-302; Acts 2019, No. 910, § 2233. **Amendments.** The 2019 amendment substituted “secretary” for “Executive Secretary” in (d).

13-2-207. Powers and duties generally.

Within the limitations of facilities and funds provided for the Arkansas State Library, the library shall:

(1) Acquire books and other library materials by purchase, exchange, gift, grant, or donation and catalog and maintain those books and materials and make them available for reference and research use of the public and the public officials and employees of this state and its political subdivisions under such rules established by the State Library Board as may be reasonably necessary to govern the use and preservation thereof;

(2) Establish and maintain a collection of books and library materials of and pertaining to Arkansas and its people, resources, and history and maintain the collection as a separate section within the library;

(3) Operate and maintain a collection of multimedia materials to complement book collections and establish reasonable rules for their use and preservation;

(4) Provide specialized services to the blind and individuals with physical disabilities under a cooperative plan with the National Library Service for the Blind and Physically Handicapped of the Library of Congress;

(5) Assist communities, libraries, schools, colleges, universities, study and civic clubs and groups, charitable and penal institutions, state agencies and departments, county and municipal governments,

and any other institutions, agencies, and individuals with books, information, library materials, and services as needed;

(6) Direct the establishment and development of county and regional library systems and programs, devise and implement a certification plan for public librarians, and assist in the design and building of public library facilities;

(7) Conduct courses of library instruction, hold library institutes in various parts of the state, and encourage the recruitment and training of library personnel in any suitable manner;

(8) Cooperate with the Division of Elementary and Secondary Education and the Division of Higher Education in devising plans for the development of libraries, in aiding librarians in their administration, in certification policies, and in formulating rules for the use of libraries;

(9) Receive gifts of library materials, money, and real and personal property, to be held in trust, subject to the terms of the donation for the purposes of this subchapter;

(10) Be the official state library agency designated to administer state and federal programs of aid to libraries and to undertake such other activities and services as will further statewide development of libraries and library systems through interlibrary, interagency, and interstate cooperation in order to secure efficient and effective library service for all Arkansans;

(11)(A) Cooperate with the various officers, departments, and agencies of state government in pooling and sharing library materials and programs so that duplication of services and facilities shall be minimized and so that maximum utilization may be made of the library services and resources of this state.

(B) In furtherance of subdivision (11)(A) of this section, the library may enter into contracts or agreements with state officers, departments, and agencies for the provision of special library services where needed and, under the terms of the contract or agreement, may provide for the method of financing special costs incurred by the library in furnishing and maintaining such special library services; and

(12) Perform all other functions and services that are common to the purposes and objectives of a state library.

History. Acts 1979, No. 489, § 4; A.S.A. 1947, § 6-303; Acts 1997, No. 208, § 9; 2019, No. 315, §§ 977, 978; 2019, No. 910, § 2234.

A.C.R.C. Notes. Acts 1997, No. 208, § 1, as reenacted by Acts 2017, No. 255, § 1, provided: “Legislative intent and purpose. The General Assembly hereby acknowledges that many of the laws relating to individuals with disabilities are antiquated, functionally outmoded, derogatory, and ambiguous or are inconsistent with more recently enacted provisions of the law. Consequently, it is the intent of

the General Assembly and the purpose of this act to clarify the relevant chapters of Titles 1, 6, 9, 13, 14, 16, 17, 20, 22, 23, and 27 of the Arkansas Code of 1987 Annotated.”

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (3) and (8).

The 2019 amendment by No. 910, in (8), substituted “Division of Elementary and Secondary Education” for “Department of Education” and “Division of Higher Education” for “Department of Higher Education”.

13-2-209. Agreements with Arkansas State Archives and Secretary of State.

(a) The Arkansas State Library, acting through the State Library Board, is authorized to enter into necessary agreements with the Arkansas State Archives, with respect to an overall plan and design to assure that the functions and materials of the library and the Arkansas State Archives may be convenient to the public and public officials of this state and to its political subdivisions, and to assure that unnecessary duplication of services and facilities is minimized.

(b)(1)(A) In addition, the library is authorized to enter into contracts and agreements with the Secretary of State for the custody, storage, cataloging, or display in the library or Arkansas State Archives of any books, records, documents, or other papers in the custody of the Secretary of State.

(B) This shall be done under such terms and conditions as may be mutually agreed to by the parties.

(2) The library is also authorized to accept custody and control over any books, records, and documents which the Secretary of State is now required by law to keep or maintain in his or her official files or volumes, if:

(A) The Secretary of State shall determine that the records could be properly cataloged, stored, and preserved in the library or Arkansas State Archives; and

(B) The Governor agrees in writing for the transfer of the books, records, and documents from the Secretary of State to the library or Arkansas State Archives, in accordance with the terms of the agreement made in writing signed by the Secretary of State and the State Librarian or the State Historian for the custody, cataloging, preservation, and care of the records.

History. Acts 1979, No. 489, § 5; A.S.A. 1947, § 6-304; Acts 2016 (3rd Ex. Sess.), No. 2, § 98; 2016 (3rd Ex. Sess.), No. 3, § 98.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History

Commission” in the section heading and in (a); substituted “Arkansas State Archives” for “commission” in (a); and inserted “Arkansas” preceding “State Archives” in (b)(1)(A), (b)(2)(A), and (b)(2)(B).

SUBCHAPTER 10 — ARKANSAS DIGITAL LIBRARY ACT**SECTION.**

13-2-1002. Creation.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of

certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two

uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of

the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

13-2-1002. Creation.

(a)(1) The Division of Higher Education and the Arkansas State Library shall develop a digitized collection of information that includes information that is in the public domain, cleared for public distribution over the internet, and to which students of public postsecondary schools in Arkansas have access.

(2) The digitized information under this subchapter shall be available for public access in at least one (1) location in each Arkansas county.

(b)(1) The division and the library shall develop criteria regarding the:

(A) Selection of materials to be digitized;

(B) Need for public access; and

(C) Means of cataloging or indexing the materials and digitizing them.

(2) Materials to be digitized may include:

(A) Print documents;

(B) Texts;

(C) Manuscripts;

(D) Photographs;

(E) Art reproductions;

(F) Postcards;

(G) Illustrations;

(H) Sound;

(I) Film; and

(J) Video.

(c) The division shall make grants under this subchapter to assist public postsecondary institutions and other public or private entities in:

(1) Selecting and digitizing information; and

(2) Developing and providing access to the digital collection in at least one (1) location in each Arkansas county.

(d)(1) Each postsecondary public institution in Arkansas shall cooperate with the division in developing the digitized collection under this subchapter.

(2) Each postsecondary public institution and any entity receiving a grant under this subchapter shall develop a plan to inform the public regarding the use of the resources made available under this subchapter.

(3) Funds made available under this subchapter may be used by the receiving entities to obtain matching funds from federal programs.

History. Acts 2003, No. 1810, § 2; 2019, No. 910, § 2235.
Amendments. The 2019 amendment substituted “Division of Higher Educa-

tion” for “Department of Higher Education” in (a)(1); and substituted “division” for “department” throughout the section.

CHAPTER 3
HISTORY COMMISSIONS

SUBCHAPTER.

- 1. ARKANSAS STATE ARCHIVES.
- 2. BLACK HISTORY COMMISSION OF ARKANSAS.

SUBCHAPTER 1 — ARKANSAS STATE ARCHIVES

SECTION.

- 13-3-101. Creation — Purpose.
- 13-3-102. Members.
- 13-3-103. Meetings — Records.
- 13-3-104. Powers and duties.
- 13-3-105. Delegation to State Historian.
- 13-3-106. State Historian — Powers and duties.

SECTION.

- 13-3-107. Preservation of public officials’ records.
- 13-3-108. Preservation of state publications.
- 13-3-109. Permanent marker to commemorate B.B. King.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

- “(a) The General Assembly finds:
“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;
“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely and quality services to Arkansas citizens; and
“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.
“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 93, provided: “Transfer of the Arkansas History Commission to the De-

- partment of Arkansas Heritage.
“(a)(1) The Arkansas History Commission within the Department of Parks and Tourism is transferred to the Department of Arkansas Heritage by a type 2 transfer under § 25-2-105.
“(2) For the purposes of this act, the Department of Arkansas Heritage shall be considered a principal department established by Acts 1971, No. 38.
“(b) All authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing, are transferred to the Department of Arkansas Heritage except as specified by this act.
“(c) All powers, duties, and functions, including rulemaking, regulation, and licensing, promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications are transferred to the Director of the Department of Arkansas Heritage.
“(d) After the transfer under subsections (a)-(c) of this section, the Arkansas History Commission formerly within the Department of Parks and Tourism shall be renamed the Arkansas State Archives.
“(e) The members of the Arkansas His-

tory Commission appointed under § 13-3-102 and their successors shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the Arkansas History Commission except as specified in this act.”

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3, § 99 substituted “State Archives” for “History Commission” in the subchapter heading.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state

entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-3-101. Creation — Purpose.

(a) The Arkansas State Archives is created and established at the seat of government of this state for the purposes of:

- (1) Keeping and caring for the official archives of this state;
- (2) Collecting materials bearing on the history of Arkansas from the earliest times;
- (3) Copying and editing official records and other historical materials;
- (4) Encouraging historical work and research; and
- (5) Performing work in relation to the foregoing.

(b) The Department of Parks, Heritage, and Tourism and the Building Authority Division shall determine the facility needs of the Arkansas State Archives.

(c) The Building Authority Division may locate and negotiate an appropriate facility for the Arkansas State Archives, but the Department of Parks, Heritage, and Tourism shall have final approval of the facility’s location.

History. Acts 1911, No. 355, §§ 1, 2; C. & M. Dig., §§ 5514, 5515; Pope’s Dig., §§ 12236, 12237; Acts 1963, No. 207, §§ 1, 2; 1985, No. 933, § 1; A.S.A. 1947, §§ 6-201, 6-202; Acts 2003, No. 611, § 1; 2015 (1st Ex. Sess.), No. 7, § 6; 2015 (1st Ex. Sess.), No. 8, § 6; 2016 (3rd Ex. Sess.), No. 2, § 100; 2016 (3rd Ex. Sess.), No. 3, § 100; 2019, No. 910, § 5551.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” in the introductory language of (a); in (b), substituted “Depart-

ment of Arkansas Heritage” for the first occurrence of “commission” and “Arkansas State Archives” for the last occurrence of “commission”; and rewrote (c).

The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of Arkansas Heritage” in (b) and (c); substituted “Department of Transformation and Shared Services” for “Department of Finance and Administration” in (b); and deleted “of the Department of Finance and Administration” following “Building Authority Division” in (c).

13-3-102. Members.

(a) The Arkansas History Commission shall consist of seven (7) members, residents and electors of this state, to be appointed by the Governor by and with the advice and consent of the Senate. Each congressional district shall be represented by membership on the commission.

(b) The term of office of each member of the commission shall commence on January 15 following the expiration date of his or her predecessor's term and shall end on January 14 of the seventh year following the year in which the term commenced.

(c) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, and to be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate when it is next in session.

(d) Before entering upon his or her duties, each member of the commission shall take and subscribe, and file in the office of the Secretary of State, an oath to support the United States Constitution and the Arkansas Constitution and to faithfully perform the duties of the office upon which he or she is about to enter.

(e) From time to time, the commission shall select from its membership a chair and a vice chair.

(f) Members of the commission shall receive no pay for their services but may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(g) The commission shall advise and assist the Secretary of the Department of Parks, Heritage, and Tourism in the performance of his or her duties under this subchapter.

History. Acts 1911, No. 355, § 2; C. & M. Dig., § 5515; Pope's Dig., § 12237; Acts 1963, No. 207, § 2; 1981, No. 639, § 1; 1985, No. 933, § 1; 1985, No. 934, § 1; A.S.A. 1947, § 6-202; Acts 1997, No. 250, § 74; 2016 (3rd Ex. Sess.), No. 2, § 101; 2016 (3rd Ex. Sess.), No. 3, § 101; 2019, No. 910, § 5552.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 added (g).

The 2019 amendment substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Arkansas Heritage" in (g).

13-3-103. Meetings — Records.

(a)(1) The Arkansas History Commission shall meet:

(A) Upon the request of the Secretary of the Department of Parks, Heritage, and Tourism; and

(B) At a time and place that is convenient to the commission.

(2) Meetings of the commission shall be open to the public.

(b) The commission shall adopt and may modify rules for the conduct of its business. The commission shall keep a record of its transactions, findings, and determinations, which record shall be public.

(c) The State Historian provided for in this chapter shall be ex officio secretary of the commission but shall have no vote on matters coming before it.

(d) A quorum shall consist of not less than four (4) members present at any regular or special meeting. The affirmative vote of that number shall be necessary for the disposition of any business.

History. Acts 1911, No. 355, § 2; C. & M. Dig., § 5515; Pope's Dig., § 12237; Acts 1963, No. 207, § 2; 1981, No. 639, § 1; A.S.A. 1947, § 6-202; Acts 2016 (3rd Ex. Sess.), No. 2, § 102; 2016 (3rd Ex. Sess.), No. 3, § 102; 2019, No. 910, § 5553.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3

rewrote (a); deleted former (c) and redesignated former (d) and (e) as present (c) and (d).

The 2019 amendment substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Arkansas Heritage" in (a)(1)(A).

13-3-104. Powers and duties.

(a) All records, papers, archives, and historical material at any time in the possession of the Arkansas State Archives, excepting such as it may have on loan, shall be and remain the property of the State of Arkansas. It shall also be the function, power, and duty of the Arkansas State Archives to:

(1) Receive, classify, and preserve, through the making of photographic copies or by other means, all official archives of Arkansas, its counties, its municipalities, and its other subdivisions, which may come either permanently or temporarily into the Arkansas State Archives's custody;

(2) Collect, classify, and preserve, through the making of photographic copies or by other means, all records, manuscripts, maps, diaries, letters, war service records, journals, and papers of historical value, pertaining to Arkansas and Arkansans;

(3) Collect and preserve, through the making of photographic copies or by other means, all files of such Arkansas newspapers as it may acquire either permanently or temporarily;

(4) Collect and preserve portraits, photographs, sketches, drawings, and other likenesses of eminent Arkansans, historic places, houses, buildings, and scenes in Arkansas;

(5) Select and publish any state papers and other source material of Arkansas history it shall deem appropriate and its funds will permit;

(6) Build up and maintain at its headquarters a reference library of the source material of Arkansas history;

(7) Establish and maintain at its headquarters any permanent or temporary displays of historic relics and other articles and objects of historic interest, which it shall determine to be desirable or feasible; and

(8) Ascertain the location of battlefields within the state on which battles were fought in the War Between the States, prepare data as to the troops employed in such engagements, ascertain which battlefields

should be marked by suitable markers, accept designs for the markers, and, within the limit of funds available for the purpose, acquire and place markers in suitable positions on those battlefields, subject, in each instance, to the approval of the owners of the land.

(b) The Arkansas State Archives may:

(1) Adopt and use a seal;

(2) Destroy, exchange, or otherwise dispose of any materials in its possession, except borrowed materials, that it may find to be surplus to its needs;

(3)(A) Establish and make reasonable charges for furnishing research services, archival services, or copies of materials in its possession.

(B) The funds collected shall be deposited to the credit of the Arkansas State Archive's account in a bank and from time to time withdrawn for the maintenance and operation of the Arkansas State Archives;

(4)(A) Receive and expend any moneys arising from grants, contributions, or gratuities, receive bequests or donations of real or personal property, convert into money any property that cannot be used in the form received, and expend the money for any of the functions performable by it.

(B) The Chief Fiscal Officer of the State shall prescribe rules for the handling of these moneys;

(5) Cooperate with, and receive the cooperation of, historical associations and other nonprofit organizations devoted to the history of this state;

(6) Contract and be contracted with; and

(7) Take other action not inconsistent with law that it considers necessary in the performance of any of its functions.

History. Acts 1911, No. 355, §§ 3, 4; 1963, No. 207, §§ 3, 4; A.S.A. 1947, §§ 6-203, 6-204; Acts 2015, No. 25, § 1; 2016 (3rd Ex. Sess.), No. 2, § 103; 2016 (3rd Ex. Sess.), No. 3, § 103.

Amendments. The 2016 (3rd Ex. Sess.)

amendment by identical acts Nos. 2 and 3 substituted "Arkansas State Archives" for "commission" and variations throughout the section; and substituted "State Archives" for "History Commission" in the introductory language of (a).

13-3-105. Delegation to State Historian.

The Director of the Division of Arkansas Heritage may delegate his or her powers and duties concerning the Arkansas State Archives to the State Historian.

History. Acts 1911, No. 355, § 2; C. & M. Dig., § 5515; Pope's Dig., § 12237; Acts 1963, No. 207, § 2; 1981, No. 639, § 1; A.S.A. 1947, § 6-202; Acts 2016 (3rd Ex. Sess.), No. 2, § 104; 2016 (3rd Ex. Sess.), No. 3, § 104; 2019, No. 910, § 5554.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 rewrote the section.

The 2019 amendment substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage".

13-3-106. State Historian — Powers and duties.

(a) The State Historian shall:

(1) Serve at the pleasure of the Secretary of the Department of Parks, Heritage, and Tourism; and

(2) Devote his or her entire time of employment to the duties of his or her employment.

(b) The State Historian shall have:

(1) A doctoral degree in the field of history from an accredited institution of higher education; or

(2) Been determined by the Director of the Division of Arkansas Heritage to be qualified to perform the duties of State Historian after considering:

(A) The person's academic background;

(B) The person's editorial ability;

(C) The person's knowledge of and interest in history;

(D) The person's experience in the field of history; and

(E) Any other factor the director determines to be relevant to performing the functions of the position.

(c)(1)(A) The State Historian shall furnish bond to the state, with a corporate surety thereon, in the penal sum of five thousand dollars (\$5,000).

(B) This bond shall be conditioned that he or she will faithfully perform his or her duties of employment and properly account for all funds received and disbursed by him or her.

(2) The State Historian shall not be required to furnish additional bond as disbursing agent, nor shall he or she be required to furnish additional bond as disbursing agent of other appropriations for which he or she may be designated disbursing agent under or pursuant to any law of this state unless so directed by the General Assembly.

(3) The bond so furnished shall be filed with the Secretary of State.

(4) An executed counterpart of the bond shall be filed with the Auditor of State.

(d) The State Historian shall administer the provisions of this chapter and the rules and orders established under this chapter as instructed by the secretary.

(e) [Repealed.]

History. Acts 1911, No. 355, § 2; C. & M. Dig., § 5515; Pope's Dig., § 12237; Acts 1963, No. 207, § 2; 1981, No. 639, § 1; A.S.A. 1947, § 6-202; Acts 2016 (3rd Ex. Sess.), No. 2, § 105; 2016 (3rd Ex. Sess.), No. 3, § 105; 2019, No. 315, § 979; 2019, No. 910, §§ 5555-5557.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 rewrote (a) and (b); deleted former (c) and (d); redesignated former (e)-(g) as (c)-(e);

added "as instructed by the director" in present (d); substituted "director" for "commission" in present (e); and made a stylistic change.

The 2019 amendment by No. 315 deleted "regulations" following "rules" in (d).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Arkansas Heritage" in (a)(1); substituted "Division of

Arkansas Heritage” for “Department of Arkansas Heritage” in the introductory language of (b)(2); and repealed (e).

13-3-107. Preservation of public officials’ records.

(a)(1) At his or her discretion, any state, county, or other official is authorized and empowered to turn over to the Arkansas State Archives, for permanent preservation, any official books, records, documents, original papers, and newspaper files not in current use in his or her office.

(2) When so surrendered, copies from the state, county, or other official’s office shall be made and certified by the Director of the Division of Arkansas Heritage upon the application of any person interested, which certification shall have the force and effect as if made by the officer originally in the custody of them, and for which the same fee shall be charged to be collected in advance.

(b)(1) All officers of this state and of its political subdivisions, as requested by the Arkansas State Archives, shall make available for copying or photographing such of their records and other materials as the Arkansas State Archives deems advisable for historical purposes.

(2) Before destroying or discarding outdated records, other than ephemeral materials, each officer shall advise the Arkansas State Archives in writing of his or her intentions, and records that have a historical value, as determined by the director, shall be given to the Arkansas State Archives.

History. Acts 1911, No. 355, § 5; C. & M. Dig., § 5519; Pope’s Dig., § 12241; Acts 1963, No. 207, § 5; A.S.A. 1947, § 6-207; Acts 2016 (3rd Ex. Sess.), No. 2, § 106; 2016 (3rd Ex. Sess.), No. 3, § 106; 2019, No. 910, § 5558.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” in (a)(1); substituted “Direc-

tor of the Department of Arkansas Heritage” for “secretary of the commission” in (a)(2); substituted “Arkansas State Archives” for “commission” in (b)(1) twice and in (b)(2) twice; substituted “director” for “commission” in (b)(2); and made a stylistic change.

The 2019 amendment substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (a)(2).

13-3-108. Preservation of state publications.

Two (2) copies of every publication of the State of Arkansas shall be placed at the disposal of the Arkansas State Archives, and shall be preserved, by photographic or other means, in the archives of the Arkansas State Archives.

History. Acts 1911, No. 355, § 6; C. & M. Dig., § 5520; Pope’s Dig., § 12242; Acts 1963, No. 207, § 6; A.S.A. 1947, § 6-208; Acts 2016 (3rd Ex. Sess.), No. 2, § 107; 2016 (3rd Ex. Sess.), No. 3, § 107.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” and “Arkansas State Archives” for “commission”.

13-3-109. Permanent marker to commemorate B.B. King.

The Arkansas State Archives shall erect a permanent marker in the town of Twist, Arkansas, to commemorate the legendary B.B. King and the event that led to his naming his famous guitar “Lucille” while he was performing there.

History. Acts 2005, No. 673, § 1; 2016 (3rd Ex. Sess.), No. 2, § 108; 2016 (3rd Ex. Sess.), No. 3, § 108.

Amendments. The 2016 (3rd Ex. Sess.)

amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission”.

SUBCHAPTER 2 — BLACK HISTORY COMMISSION OF ARKANSAS

SECTION.

13-3-201. Purpose.

13-3-203. Meetings — Rules and bylaws — Secretary.

13-3-204. Duties — Records, papers, archives, and historical materials property of state.

SECTION.

13-3-205. State Historian’s duties — Location of Black History Commission of Arkansas.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-3-201. Purpose.

The Black History Commission of Arkansas is created and established at the seat of government of this state for the purpose of:

(1) Advising the Secretary of the Department of Parks, Heritage, and Tourism with respect to gathering, developing, and keeping the history of a segment of Arkansas society whose history has been overlooked and forgotten and has been simply neglected because of a lack of concern;

(2) Collecting materials bearing on the history of black Arkansans from the earliest times;

(3) Encouraging historical work and research in the background of black Arkansans to help the young citizens of the state appreciate their heritage; and

(4) Performing work in relation to the history of black Arkansans.

History. Acts 1991, No. 1233, § 1; 2001, No. 1553, § 22; 2007, No. 1601, § 1; 2016 (3rd Ex. Sess.), No. 2, § 109; 2016 (3rd Ex. Sess.), No. 3, § 109; 2019, No. 910, § 5559.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3

substituted “Director of the Department of Arkansas Heritage” for “Arkansas History Commission” in (1).

The 2019 amendment substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Department of Arkansas Heritage” in (1).

13-3-203. Meetings — Rules and bylaws — Secretary.

(a) The Black History Commission of Arkansas shall meet at such times and places as in each instance may suit the commission’s convenience and its purposes, and all meetings shall be open to the public.

(b)(1) The commission shall adopt and may modify rules and bylaws for the conduct of its business, subject to the approval of the Secretary of the Department of Parks, Heritage, and Tourism.

(2) The commission shall keep a record of its transactions, findings, and determinations, which record shall be public.

(c) The rules shall provide for regular meetings and for special meetings at the call of the Chair of the Black History Commission of Arkansas or in his or her absence or incapacity, the vice chair, or upon written request of at least four (4) members.

(d) The State Historian shall be ex officio secretary of the commission but shall have no vote on matters coming before it.

(e) A quorum of the commission shall consist of not less than four (4) members present at any regular or special meeting. The affirmative vote of that number shall be necessary for the disposition of any business.

History. Acts 1991, No. 1233, § 3; 2007, No. 1601, § 3; 2016 (3rd Ex. Sess.), No. 2, § 110; 2016 (3rd Ex. Sess.), No. 3, § 110; 2019, No. 910, § 5560.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “Director of the Department

of Arkansas Heritage” for “Arkansas History Commission” in (b)(1).

The 2019 amendment substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Department of Arkansas Heritage” in (b)(1).

13-3-204. Duties — Records, papers, archives, and historical materials property of state.

(a) It shall be the function, power, and duty of the Black History Commission of Arkansas to assist the Arkansas History Commission and the Arkansas State Archives to:

(1) Collect, classify, and preserve, through the making of photographic copies or by other means, records, manuscripts, maps, diaries, letters, war service records, journals, and papers of historical value, pertaining to the black race in Arkansas and black Arkansans;

(2) Collect and preserve portraits, photographs, sketches, drawings, and other likenesses of eminent black Arkansans and historic places, houses, buildings, and scenes involving the black race in Arkansas;

(3) Select and publish any papers, research, and other source material on the contribution of the black race in Arkansas history which it shall deem appropriate and funds will permit;

(4) Build up and maintain a reference library of the source material on the black race in Arkansas history; and

(5) Cooperate with, and receive the cooperation of, any historical associations or any black historical associations and other nonprofit organizations devoted to the history or the black history of this state.

(b) All records, papers, archives, and historical material at any time in the possession of the Black History Commission of Arkansas, excepting such as it may have on loan, shall be and remain the property of the State of Arkansas.

History. Acts 1991, No. 1233, § 4; 2007, No. 1601, § 4; 2016 (3rd Ex. Sess.), No. 2, § 111; 2016 (3rd Ex. Sess.), No. 3, § 111.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 inserted “and the Arkansas State Archives” in the introductory language of (a).

13-3-205. State Historian’s duties — Location of Black History Commission of Arkansas.

(a)(1) The State Historian shall assist the Black History Commission of Arkansas in the performance of its duties and shall be the custodian of all property and reference and source materials of the commission.

(2) The State Historian shall be charged with the duty of administering this subchapter.

(b) The offices of the commission and the archives of its records shall be located with the records of the Arkansas State Archives.

History. Acts 1991, No. 1233, §§ 1, 6; 2003, No. 611, § 2; 2007, No. 1601, § 5; 2016 (3rd Ex. Sess.), No. 2, § 112; 2016 (3rd Ex. Sess.), No. 3, § 112.

amendment by identical acts Nos. 2 and 3, in (b), substituted “the records” for “those” and “State Archives” for “History Commission”.

Amendments. The 2016 (3rd Ex. Sess.)

CHAPTER 4

PUBLIC RECORDS MANAGEMENT AND ARCHIVES

SUBCHAPTER.

2. ELECTRONIC COURT RECORDS.
 3. COUNTY RECORDS RETENTION.
 4. SHERIFF'S OFFICE RECORD RETENTION SCHEDULE.
-

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity's governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

SUBCHAPTER 2 — ELECTRONIC COURT RECORDS

SECTION.

- 13-4-203. Records Retention Committee.
13-4-204. Destruction of original.
-

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emer-

gency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-4-203. Records Retention Committee.

(a) A Records Retention Committee shall be created, whose responsibility shall be to study, develop, and issue standards consistent with the guidelines enumerated in § 13-4-202 which pertain to existing and future recording systems.

- (b) The committee shall include one (1) representative from each of the following:
- (1) The Arkansas Association of County Clerks;
 - (2) The Arkansas Circuit Clerks Association;
 - (3) The Association of Arkansas Counties;
 - (4) The Arkansas State Archives;
 - (5) The Division of Information Systems;
 - (6) ARMA International; and
 - (7) The Arkansas City Clerks, Recorders, and Treasurers Association.
- (c) The committee shall be chaired by a representative from the Administrative Office of the Courts.

History. Acts 1995, No. 1061, § 2; 1997, No. 544, § 1; 2016 (3rd Ex. Sess.), No. 2, § 113; 2016 (3rd Ex. Sess.), No. 3, § 113; 2019, No. 910, § 6066.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3

substituted “State Archives” for “History Commission” in (b)(4).

The 2019 amendment substituted “Division of Information Systems” for “Department of Information Systems” in (b)(5).

13-4-204. Destruction of original.

- (a) When any document is recorded by the means prescribed by § 13-4-201, the paper original may be destroyed unless the document is over fifty (50) years old and handwritten or has been determined to be of historical value by the Arkansas State Archives.
- (b) If the paper original does not meet these criteria, the electronically stored document shall be considered the “original” document and shall be treated as such when proffered with the recorder’s certification.

History. Acts 1995, No. 1061, § 2; 1997, No. 882, § 2; 2001, No. 311, § 1; 2016 (3rd Ex. Sess.), No. 2, § 114; 2016 (3rd Ex. Sess.), No. 3, § 114.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” in (a).

SUBCHAPTER 3 — COUNTY RECORDS RETENTION

SECTION.	SECTION.
13-4-301. Retention required — Destruction — Electronic reproduction.	13-4-304. Financial records.
13-4-302. Court records.	13-4-306. Voter registration and election records.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

13-4-301. Retention required — Destruction — Electronic reproduction.

(a)(1) A county shall maintain the records named in this subchapter for the period of time provided for in this subchapter, after which time the records may be destroyed.

(2)(A) The records named in this subchapter shall not be destroyed until at least one (1) year after an audit by Arkansas Legislative Audit or a private audit is completed and approved.

(B) A record named in this subchapter that is over fifty (50) years old shall not be destroyed before written notice by the custodian of the records and describing the scope and nature of the records in question has been furnished to the Arkansas State Archives, at least sixty (60) days before the destruction of the records.

(b)(1) If a record is photographically or electronically transferred to other media of a permanent nature, the original documents may be destroyed, except that no handwritten records over fifty (50) years old shall be destroyed.

(2) A county record that is photographically or electronically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in this section and §§ 13-4-302 — 13-4-308;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established by each county official to ensure that electronically or optically stored information, for records required to be kept permanently, is reviewed for data conversion at least one (1) time every four (4) years or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

(d) Before a record is destroyed, the custodian of the record shall document the date and type of document.

(e) Records not addressed explicitly under this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas Legislative Audit or any private auditor is completed and approved.

History. Acts 1991, No. 800, § 8; 1997, No. 882, § 3; 2016 (3rd Ex. Sess.), No. 2, § 115; 2016 (3rd Ex. Sess.), No. 3, § 115; 2017, No. 560, § 1.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” in (a)(2)(B).

The 2017 amendment added “Electronic reproduction” to the section heading; substituted “A county” for “All counties of the

State of Arkansas” in (a)(1); in (a)(2)(A), substituted “The records named in this subchapter shall not” for “But in no case shall the records”, and substituted “a private audit” for “any private auditor”; rewrote (a)(2)(B); redesignated former (b) as (b)(1); inserted “or electronically” in (b)(1); added (b)(2) and (c); redesignated former (c) as (d); substituted “a record is” for “any record shall be” in (d); and added (e).

13-4-302. Court records.

If a county of the State of Arkansas maintains records for the county courts, the county shall maintain these records as follows:

(1)(A) For circuit court, civil and criminal, domestic relations, and probate records:

(i) The county shall permanently maintain:

(a) Complete case files and written exhibits for all courts;

(b) Case indices for all courts;

(c) Case dockets for all courts;

(d) Grand jury reports;

(e) Grand juror lists;

(f) Petit jury lists in criminal cases;

(g) Original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a criminal case; and

(h) All probate records required to be maintained under § 28-1-108;

(ii) The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

(a) Records and reports of costs; and

(b) Fees assessed and collected; and

(iii) The county shall maintain for three (3) years, after audit by Arkansas Legislative Audit:

(a) Canceled checks;

(b) Bank statements;

(c) Petit jury lists in civil cases and original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a civil case; and

(d) Served and quashed warrants.

(B) The county shall maintain records of the juvenile division of circuit court, in accordance with § 9-27-309 and other provisions of Title 9 and the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;

(2) For county court records:

(A) The county shall permanently maintain:

(i) County court records;

(ii) Cemetery permits;

(iii) Statements of receipt and expenditures; and

(iv) County improvement district reports; and

(B) The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

- (i) County court files;
- (ii) County general claims dockets;
- (iii) County road claims dockets;
- (iv) Contracts for lease-purchase on rental payments;
- (v) County school board financial reports;
- (vi) Solid waste disposal revenue bonds; and
- (vii) Allocations of state funds for solid waste disposal; and

(3) For quorum court records:

(A) The county shall permanently maintain:

- (i) Ordinance, appropriation ordinance, and resolution registers;
- (ii) Records of proceedings;
- (iii) Codification of ordinances;
- (iv) Registers of county advisory and administrative boards;
- (v) Appointments to subordinate service districts; and
- (vi) Quorum court minutes; and

(B) The county shall maintain for one (1) year the county treasurer's monthly financial report.

History. Acts 1991, No. 800, § 1; 2007, No. 226, § 1; 2015, No. 83, § 1; 2017, No. 560, § 2.

Amendments. The 2017 amendment rewrote the section.

13-4-304. Financial records.

All counties of the State of Arkansas shall maintain financial records for the county as follows, if they are currently being maintained:

(1) Social Security and federal income tax records maintained per federal regulations;

(2) State income tax records maintained per state law and rules;

(3) Wage garnishments maintained until after a lien is satisfied;

(4)(A) Maintain for seventy-five (75) years:

(i) Payroll records and ledger; and

(ii) Retirement records;

(B) Maintain for ten (10) years:

(i) Appropriation journal (record of disbursements); and

(ii) Warrant register or check disbursement record;

(C) Maintain for seven (7) years:

(i) County general claims certificate or invoice;

(ii) County road claims certificate or invoice; and

(iii) County school claims certificate or invoice;

(D) Maintain for five (5) years:

(i) Unemployment insurance state contribution; and

(ii) Workers' compensation insurance payment; and

(E) Maintain for three (3) years:

(i) Warrants or checks, or both, with documentation;

(ii) Bank records for trust, agency, fee, and court accounts (bank statements and canceled checks); and

(iii) Receipt books and disbursement journal;

- (5) For county treasurer's records:
 - (A) Maintain permanently:
 - (i) Treasurer's operating and clearing account ledgers;
 - (ii) Treasurer's trust and agency account ledgers;
 - (iii) Treasurer's city account ledgers;
 - (iv) Treasurer's improvement district account ledgers; and
 - (v) Treasurer's school district account ledgers;
 - (B) Maintain for seven (7) years:
 - (i) Land redemption receipts;
 - (ii) Annual settlement with county court; and
 - (iii) Record of school bond indebtedness and matured school district bonds; and
 - (C) Maintain for three (3) years:
 - (i) Receipt books;
 - (ii) Bank statements and canceled checks;
 - (iii) Canceled warrants;
 - (iv) Treasurer's monthly reconciliation;
 - (v) Treasurer's monthly report to quorum court;
 - (vi) Delinquent land redemption distribution reports;
 - (vii) Delinquent personal distribution reports;
 - (viii) County officials' monthly reports;
 - (ix) Municipal court monthly reports;
 - (x) Treasurer's monthly report to prosecuting attorney;
 - (xi) School district bank statements;
 - (xii) Annual report to county school supervisor;
 - (xiii) Register of school warrants;
 - (xiv) Teachers and school employee contracts; and
 - (xv) Surety bond of school district treasurer and superintendent.

History. Acts 1991, No. 800, § 3; 2019, No. 315, § 980.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (2).

13-4-306. Voter registration and election records.

All counties shall maintain county voter registration and election records for the county as follows, if the records are currently being:

- (1) Maintained permanently:
 - (A) Voter registration record files;
 - (B) Maps of election precincts from the county board of election commissioners;
 - (C) Certificates of election; and
 - (D) Ordinance election results; and
- (2)(A) Maintained for ten (10) years, after canceled, a person's voter registration record and reason for cancellation of a person's voter registration.
 - (B) Maintained for ten (10) years:
 - (i) Minutes of the board of election commissioners; and
 - (ii) Election files.
 - (C) Maintained for five (5) years:

- (i) Petition, certificate, and notices for ordinance;
- (ii) Political practice pledges;
- (iii) Campaign contribution and expenditure sheets;
- (iv) Code of ethics statements; and
- (v) Financial disclosures.
- (D) Maintained for two (2) years:
- (i) Acknowledgement notices giving the disposition of a person's voter registration application;
- (ii) Precinct voter registration lists prepared for each election;
- (iii) Confirmation notices mailed by a county clerk to confirm a voter's change of residence or name;
- (iv) Confirmation return cards received in response to a confirmation notice;
- (v) Absentee ballot applications and lists, except where litigation follows or federal law governs; and
- (vi) Voter registration cards; and
- (E) Until an election is certified to the Secretary of State under § 7-5-701, all unused ballots.

History. Acts 1991, No. 800, § 5; 1995, No. 925, § 2; 1995, No. 939, § 2; 2017, No. 560, § 3.

Amendments. The 2017 amendment, in the introductory language, deleted "of

the State of Arkansas" following "counties", substituted "the records" for "they", and deleted "maintained" from the end; added (2)(D)(vi) and (2)(E); and made stylistic changes.

SUBCHAPTER 4 — SHERIFF'S OFFICE RECORD RETENTION SCHEDULE

SECTION.

- 13-4-401. Retention required — Destruction — Electronic reproduction.
- 13-4-403. Criminal investigation documentation — Definition.

SECTION.

- 13-4-404. Jail booking records — Definition.
- 13-4-405. Dispatch reports — Definition.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

13-4-401. Retention required — Destruction — Electronic reproduction.

(a)(1) A county sheriff's office shall maintain the records named in this subchapter for the period of time provided in this subchapter, after which time the records may be destroyed.

(2)(A) Administrative records shall not be destroyed until at least one (1) year after an audit by Arkansas Legislative Audit or a private auditor is completed and approved.

(B) A record over fifty (50) years old shall not be destroyed before written notice by the custodian of the records in question has been furnished to the Arkansas State Archives, describing the scope and nature of the records, at least sixty (60) days before the destruction of the records.

(b)(1) If a record is photographically or electronically transferred to other media of a permanent nature, the original document may be destroyed, except that a handwritten record over fifty (50) years old shall not be destroyed.

(2) A county record that is photographically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in § 13-4-301 et seq.;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established to ensure that electronically or optically stored information is reviewed for data conversion at least one (1) time every four (4) years or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

(d) Before any record is destroyed, the custodian of the record shall document the date and type of document.

(e) Records explicitly not addressed in this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas Legislative Audit or a private auditor is completed and approved.

History. Acts 2011, No. 43, § 1; 2016 (3rd Ex. Sess.), No. 2, § 116; 2016 (3rd Ex. Sess.), No. 3, § 116; 2017, No. 560, § 4.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” in (a)(2)(B).

The 2017 amendment added “Electronic reproduction” to the section heading; sub-

stituted “Administrative records shall not” for “In no case shall administrative records” in (a)(2)(A); in (a)(2)(B), substituted “A” for “Any” and “shall not” for “will not”; redesignated former (b) as (b)(1); inserted “electronically” in (b)(1); added (b)(2) and (c); redesignated former (c) as (d); and added (e).

13-4-403. Criminal investigation documentation — Definition.

(a) As used in this section, “criminal investigation documentation” includes without limitation:

- (1) Incident or offense reports;
- (2) Arrest warrant records;
- (3) Search warrant records; and
- (4) Investigative case files, including:
 - (A) Photographs;
 - (B) Lab reports; and
 - (C) Audiovisual media.

(b) Criminal investigation documentation shall be retained for the following periods of time:

(1) If the documentation is associated with a Class Y or Class A felony, it shall be retained for at least thirty (30) years;

(2) If the documentation is associated with a non-Class Y felony, it shall be retained for at least ten (10) years;

(3) If the documentation is associated with a misdemeanor or violation, it shall be retained for at least five (5) years; and

(4) If the documentation relates to a civil matter or other noncriminal matter, it shall be retained for at least three (3) years.

(c) Criminal investigation documentation may be disposed of by the order of the county judge upon recommendation of the county sheriff after the period of time dictated by subsection (b) of this section.

History. Acts 2011, No. 43, § 1; 2017, No. 560, § 5.

Amendments. The 2017 amendment added “As used” at the beginning of (a); substituted “for at least thirty (30) years”

for “indefinitely” in (b)(1); substituted “a non-Class Y” for “any other” in (b)(2); inserted “at least” in (b)(2) through (b)(4); and made a stylistic change.

13-4-404. Jail booking records — Definition.

(a) As used in this section, “jail booking records” means records generated and kept during jail booking procedures and while a person is in custody and includes without limitation:

- (1) Fingerprint cards;
- (2) Booking photographs; and
- (3) Jail detention logs.

(b) Jail booking records shall be kept for at least five (5) years, after which time they may be disposed of by order of the county judge upon recommendation of the county sheriff.

History. Acts 2011, No. 43, § 1; 2017, No. 560, § 6.

Amendments. The 2017 amendment

added “As used” at the beginning of (a); and substituted “at least five (5) years” for “thirty (30) years” in (b).

13-4-405. Dispatch reports — Definition.

(a) As used in this section, “dispatch reports” means records generated and kept regarding:

- (1) Incoming calls to the county sheriff's office involving reports or complaints from the general public;
- (2) Complaint cards; and
- (3) Radio traffic logs.
- (b) Dispatch reports shall be kept for a period of at least five (5) years, after which they may be disposed of by the order of the county judge upon recommendation of the county sheriff.

History. Acts 2011, No. 43, § 1; 2017, No. 560, § 7.

added "As used" at the beginning of (a); and substituted "at least five (5) years" for "seven (7) years" in (b).

Amendments. The 2017 amendment

CHAPTER 5

MUSEUMS

SUBCHAPTER.

2. MUSEUM SERVICES.
3. ARKANSAS MUSEUM AND CULTURAL CENTER ACT.
4. MUSEUM OF NATURAL RESOURCES.
5. COUNTY MUSEUMS.
6. ARKANSAS POST MUSEUM.
7. DELTA CULTURAL CENTER.
8. ARKANSAS COTTON MUSEUM.
9. MOSAIC TEMPLARS OF AMERICA CENTER FOR AFRICAN-AMERICAN CULTURE AND BUSINESS ENTERPRISE.
10. MUSEUM PROPERTY ACT.

SUBCHAPTER 2 — MUSEUM SERVICES

SECTION.

13-5-206. Program of grants-in-aid and technical assistance.

SECTION.

13-5-207. [Repealed.]

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

13-5-206. Program of grants-in-aid and technical assistance.

(a) The Department of Parks, Heritage, and Tourism shall establish and carry out a program of grants-in-aid to eligible museums or, in

appropriate cases, organizations engaged in or concerned with history, science, art, or culture on the basis of fifty percent (50%) state grant funds and fifty percent (50%) of the funds to be provided by the museum, as follows:

(1) Only museums and programs concerned with historical, scientific, cultural, or artistically oriented programs offering nonprofit services to the general public may make application for and qualify for funds under this subchapter;

(2) None of the funds received by a museum or other organization which qualifies or utilizes funds under this subchapter shall be used as matching funds for other state funds; and

(3) All requests for state grant funds under this subchapter shall be prepared on forms promulgated or approved by the Department of Parks, Heritage, and Tourism and shall be in compliance with the provisions of this subchapter and with reasonable rules to be promulgated by the Department of Parks, Heritage, and Tourism for the administration of this subchapter.

(b) The Department of Parks, Heritage, and Tourism shall provide technical assistance and information to all museums and museum personnel in Arkansas, within the limitations of available staff and funding.

History. Acts 1979, No. 832, § 3; A.S.A. 1947, § 5-907.8; Acts 2001, No. 802, § 2; 2019, No. 910, § 5561.

Amendments. The 2019 amendment substituted "Department of Parks, Heritage, and Tourism" for "State Parks Divi-

sion of the Department of Parks and Tourism" in the introductory language of (a); and substituted "Department of Parks, Heritage, and Tourism" for "division" twice in (a)(3) and in (b).

13-5-207. [Repealed.]

Publisher's Notes. This section, concerning the Arkansas Museum Review Panel, was repealed by Acts 2019, No. 910, § 5562, effective July 1, 2019. The section

was derived from Acts 1979, No. 832, § 5; 1983, No. 758, § 2; 1985, No. 944, § 1; A.S.A. 1947, § 5-907.10; Acts 1997, No. 250, § 77; 2001, No. 802, § 3.

SUBCHAPTER 3 — ARKANSAS MUSEUM AND CULTURAL CENTER ACT

SECTION.

- 13-5-307. Funds for museum and cultural center — Issuance of bonds.
- 13-5-308. Authorizing resolutions.
- 13-5-309. Terms and characteristics of bonds.
- 13-5-310. Contract with bond owners — Enforcement.
- 13-5-311. Sale of bonds.
- 13-5-312. Execution of bonds and coupons.

SECTION.

- 13-5-313. Statements on bonds — Liability.
- 13-5-314. Disposition of revenues.
- 13-5-315. Debt service — Pledge of revenues and earnings — Admission charges.
- 13-5-316. Administration of debt-service provisions — Bond guaranty fund.
- 13-5-320. Audit of records and accounts.
- 13-5-321. Employment of personnel.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

13-5-307. Funds for museum and cultural center — Issuance of bonds.

(a)(1) The Secretary of the Department of Parks, Heritage, and Tourism is authorized to use any available funds for the construction, equipment, and operation of a museum and cultural center.

(2) The secretary is authorized to issue revenue bonds, secured by and payable from the revenues specified in this subchapter, and to use the proceeds of the bonds for the acquisition, construction, and equipment of the center.

(b) The principal amount of bonds to be issued by the secretary shall be sufficient, together with any available funds, to pay the cost of accomplishing the specified purposes, the costs of authorizing and issuing bonds, the amounts necessary for reserves if deemed desirable by the secretary, the amounts necessary for interest during and for up to one (1) year after construction, and all other costs of whatever nature incidental to the accomplishment of the center, but in no event shall the aggregate principal amount of bonds exceed twelve million dollars (\$12,000,000).

(c)(1) No bonds shall be issued under the provisions of this subchapter unless and until the secretary, or a department, or educational or other institution, or agency of the State of Arkansas has entered into a signed agreement with the Smithsonian Institution, an agency thereof, or organization affiliated therewith, which agreement shall provide that the Smithsonian Institution, the agency, or organization shall involve itself with the Arkansas Museum and Cultural Center and its operation.

(2) The agreement must first be approved in writing by the Governor of the State of Arkansas.

History. Acts 1971, No. 515, §§ 5, 9; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, §§ 6-1206, 6-1209; Acts 2019, No. 910, § 5563.

Amendments. The 2019 amendment

substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism" in (a)(1); and substituted "secretary" for "director" throughout the section.

13-5-308. Authorizing resolutions.

(a) Bonds shall be authorized by resolution of the Secretary of the Department of Parks, Heritage, and Tourism.

(b) The authorizing resolution may contain or may provide for the execution of a trust indenture which may contain any other terms, covenants, and conditions that are deemed desirable by the secretary, including, without limitation, those pertaining to:

- (1) The maintenance of various funds and reserves;
- (2) The nature and extent of revenue pledges and security;
- (3) The conditions precedent to the issuance of additional bonds and the priority of lien and pledge in that event;
- (4) The custody and application of the proceeds of the bonds;
- (5) The collection and disposition of revenues;
- (6) The investing and reinvesting in securities specified by the secretary of any moneys during periods not needed for authorized purposes; and
- (7) The rights, duties, and obligations of the secretary and of the holders and registered owners of the bonds.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, §§ 5564, 5565.

added “Secretary of the Department of Parks, Heritage, and Tourism” in (a); and inserted “or secretary” in the introductory language of (b).

Amendments. The 2019 amendment

13-5-309. Terms and characteristics of bonds.

(a) As the Secretary of the Department of Parks, Heritage, and Tourism shall determine, bonds issued pursuant to this subchapter may:

- (1) Be coupon bonds, payable to bearer, or may be registrable as to principal only or as to principal and interest, and may be made exchangeable for bonds of another denomination;
- (2) Be in a form and denomination as the secretary determines;
- (3) Have such date or dates, may be stated to mature at such times, and bear interest payable at such times and at such rate or rates, as the secretary determines, provided that no bond may bear interest at a rate exceeding eight percent (8%) per annum;
- (4) Be made payable at places within or without the State of Arkansas;
- (5) Be made subject to terms of redemption in advance of maturity at such prices, as determined by the secretary;
- (6) Be issued in series from time to time; and
- (7) Contain such terms and conditions as the secretary determines.

(b) Subject to provisions as to registration as set forth in subsection (a) of this section, the bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, § 5566.

Amendments. The 2019 amendment substituted “Secretary of the Department

of Parks, Heritage, and Tourism” for “Director of the Department of Parks and Tourism” in the introductory language of (a); and substituted “secretary” for “director” throughout (a).

13-5-310. Contract with bond owners — Enforcement.

(a) Any authorizing resolution and trust indenture shall, together with this subchapter, constitute a contract between the Secretary of the Department of Parks, Heritage, and Tourism and the holders and registered owners of the bonds.

(b) This contract and all covenants, agreements, and obligations therein shall be promptly performed in strict compliance with the terms and provisions of the contract.

(c) The covenants, agreements, and obligations of the secretary may be enforced by mandamus or other appropriate proceedings at law or in equity.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, § 5567.

substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Department of Parks and Tourism” in (a).

Amendments. The 2019 amendment

13-5-311. Sale of bonds.

(a) The bonds shall be sold at public sale on sealed bids after such advertisement as the Secretary of the Department of Parks, Heritage, and Tourism shall determine to be necessary for the obtaining of favorable competitive bidding.

(b) In no event shall any bid be accepted which results in a net interest cost, which is determined by computing the aggregate interest cost from date to maturity at the rates bid and deducting any premium or adding the amount of any discount, in excess of the interest cost computed at par for bonds bearing interest at the rate of eight percent (8%) per annum.

(c) The bonds shall not be subject to conversion.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, § 5568.

substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Department of Parks and Tourism” in (a).

Amendments. The 2019 amendment

13-5-312. Execution of bonds and coupons.

(a) The bonds shall be executed by the manual or facsimile signature of the Secretary of the Department of Parks, Heritage, and Tourism. The coupons attached to the bonds shall be executed by the facsimile signature of the secretary.

(b) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be officers before the delivery of the bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes.

(c) The secretary shall adopt and use a seal in the execution and issuance of the bonds. Each bond shall be sealed with the seal of the secretary.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, §§ 5569, 5570.

substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism" in (a); and substituted "secretary" for "director" twice in (c).

Amendments. The 2019 amendment

13-5-313. Statements on bonds — Liability.

(a) It shall be plainly stated on the face of each bond that:

(1) The bond has been issued under the provisions of this subchapter;

(2) The bonds are obligations only of the Secretary of the Department of Parks, Heritage, and Tourism;

(3) In no event do the bonds constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged; and

(4) The bonds are not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas or the Department of Parks, Heritage, and Tourism.

(b) No member of the department shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this subchapter unless he or she shall have acted with a corrupt intent.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, §§ 5571, 5572.

Amendments. The 2019 amendment substituted "Secretary of the Department

of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism" in (a)(2); and substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (a)(4).

13-5-314. Disposition of revenues.

(a) All revenues derived from the operation of the Arkansas Museum and Cultural Center and all other funds received by the Secretary of the Department of Parks, Heritage, and Tourism from other sources for use in connection with the center and its operation are center revenues and are specifically declared to be cash funds, restricted in their use and to be used solely as provided in this subchapter.

(b) These revenues shall not be deposited into the State Treasury but shall be deposited by the Department of Parks, Heritage, and Tourism as and when received into a bank or banks as the secretary may from time to time select.

(c)(1) Center revenues shall be applied annually in the following order:

(A) To the extent necessary after taking into consideration any other funds which may be available for the purpose, for operation and maintenance expenses of the center; and

(B) To the payment of the principal of, interest on, and trustee's and paying agent's fees in connection with bonds issued under this subchapter, and the establishing and maintaining of any debt service reserves.

(2) Should there be any excess after subdivisions (c)(1)(A) and (B) of this section, the excess may be applied, as determined by the secretary, to the redemption of bonds prior to maturity or for the payment of any costs and expenses incurred by the secretary in the accomplishment of the powers and authorities conferred upon the secretary by § 13-5-304 [repealed].

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, § 5573.

Amendments. The 2019 amendment substituted "Secretary of the Department

of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism" in (a); and in (b), substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" and "secretary" for "director".

13-5-315. Debt service — Pledge of revenues and earnings — Admission charges.

(a) The payment of debt service, including principal, interest, and trustee's and paying agent's fees, shall be secured by a lien on and pledge of net center revenues, which are gross revenues less those revenues applied to operation and maintenance as set forth in § 13-5-314.

(b) As additional security, the payment of debt service may be secured by a pledge of earnings to the extent specified in this section derived from the investment of state funds pursuant to the State Treasury Management Law, § 19-3-501 et seq., known as the "investment earnings".

(c) Any pledge of investment earnings shall be subordinate to pledges authorized by the Industrial Development Guaranty Bond Act, § 15-4-701 et seq.

(d) No earnings from the investment of state funds shall be pledged to secure bonds issued by the Secretary of the Department of Parks, Heritage, and Tourism under this subchapter unless the secretary shall first enter into an agreement with the State Board of Finance to charge appropriate fees for admission to the Arkansas Museum and Cultural Center and to set aside in a special sinking fund, to be used exclusively to pay the principal of, interest on, and paying agent's fees in connection with, bonds issued by the secretary, at least seventy-five cents (75¢) of the admission fee collected for each adult and fifty cents (50¢) of the admission fee collected for each person six (6) years of age to seventeen (17) years of age, inclusive.

(e) However, the secretary may waive all admission charges or establish special reduced admission charges for any school-sponsored student, students, or groups, in which cases the provisions of this section relating to the setting aside of a prescribed amount of each admission charge for payment of principal and interest on bonds shall not apply.

(f) Notwithstanding the provisions of § 13-5-314, the revenues required to be set aside into the special sinking fund shall not be deposited or used for any purpose other than for payment of principal, interest, and paying agent's fees on bonds issued under this subchapter.

(g) All pledges of investment earnings under this subchapter shall not exceed in the aggregate five hundred thousand dollars (\$500,000) for any fiscal year.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, § 5574.

Amendments. The 2019 amendment,

in (d), substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism" and "secretary" for "director" twice.

13-5-316. Administration of debt-servicing provisions — Bond guaranty fund.

(a) The Secretary of the Department of Parks, Heritage, and Tourism shall notify the State Board of Finance or the appropriate officer, board, or agency then having jurisdiction over the moneys involved when the secretary has determined to issue bonds under this subchapter and the amount of investment earnings pledged.

(b)(1) Thereafter, the secretary shall constantly keep advised of revenues derived from the Arkansas Museum and Cultural Center.

(2) If it develops that all or any portion of the investment earnings pledged will actually be needed to satisfy the terms of the pledge, the secretary shall promptly notify the board of the amount that will be actually needed each month to provide for the payment of interest, principal, and paying agents' fees and for the maintenance of reserves as specified by the secretary in the resolution or trust indenture authorizing and securing the bonds, which monthly amount is designated the "debt service amount".

(c) At the receipt of the notice, the board or the appropriate officer, board, or agency then having jurisdiction over the moneys involved shall set aside the debt service amount of the investment earnings and, subject to first complying with any pledge heretofore or any time hereafter made of investment earnings authorized by the Industrial Development Guaranty Bond Act, § 15-4-701 et seq., shall pay the debt service amount directly to the secretary in a bank or banks selected by the secretary and designated the "Arkansas Museum and Cultural Center Bond Guaranty Fund", also known as the "Center Guaranty Fund".

(d)(1) Moneys in the fund shall be used to pay the principal of, interest on, and paying agent's fees in connection with the bonds and to maintain reserves as authorized by this subchapter.

(2)(A) The payments shall continue until the secretary shall determine that center revenues in the future will be sufficient and shall notify the board to cease paying the debt service amount.

(B) The payments, within the limits of outstanding pledges made pursuant to the provisions of this subchapter, shall be resumed and discontinued as required.

(e) The debt service amount and all moneys deposited or to be deposited in the fund are declared to be cash funds, restricted in their use and dedicated and to be used solely as authorized in this subchapter.

(f) So long as any bonds authorized by this subchapter are outstanding, the authorization made shall not be repealed or diminished without providing an alternate source of funds sufficient to satisfy all revenue pledges made to bonds issued under this subchapter.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206; Acts 2019, No. 910, §§ 5575-5577.

substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism" in (a); and substituted "secretary" for "director" throughout the section.

Amendments. The 2019 amendment

13-5-320. Audit of records and accounts.

Arkansas Legislative Audit is authorized and directed to audit the records and accounts of the Secretary of the Department of Parks, Heritage, and Tourism and to furnish a copy of the report of that audit to the Department of Parks, Heritage, and Tourism.

History. Acts 1971, No. 515, § 10; A.S.A. 1947, § 6-1210; Acts 2019, No. 910, § 5578.

Amendments. The 2019 amendment substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism" and substituted "Department of Parks, Heritage, and Tourism" for "department".

13-5-321. Employment of personnel.

(a) The Secretary of the Department of Parks, Heritage, and Tourism is authorized to employ such full-time or temporary professional, technical, and other consulting services as the secretary shall determine necessary or desirable in assisting the Department of Parks, Heritage, and Tourism to carry out effectively the authority, functions, powers, and duties conferred and imposed upon it by this subchapter.

(b) However, the salaries of regular employees shall be governed by the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., and by the provisions of the Regular Salary Procedures and Restrictions Act, § 21-5-101.

(c) The Director of the Arkansas Museum and Cultural Center shall be employed by the secretary.

History. Acts 1971, No. 515, § 11; 1979, No. 832, § 9; A.S.A. 1947, § 6-1211; Acts 1991, No. 343, § 3(b); 2019, No. 910, § 5579.

Amendments. The 2019 amendment, in (a), substituted “Secretary of the Department of Parks, Heritage, and Tourism” for the first occurrence of “Director of

the Department of Parks and Tourism” and substituted “secretary” for the second occurrence, and substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism”; and substituted “secretary” for “Director of the Department of Parks and Tourism” in (c).

SUBCHAPTER 4 — MUSEUM OF NATURAL RESOURCES

SECTION.

13-5-401. Museum established.

13-5-402. Functions and duties.

SECTION.

13-5-403. Museum site.

13-5-404. [Repealed.]

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-5-401. Museum established.

The State Parks Division is authorized and directed to establish a state historical museum in Union County to be known and operated as the “Arkansas Museum of Natural Resources”.

History. Acts 1977, No. 310, § 1; 1979, No. 832, § 10; A.S.A. 1947, § 53-1201; Acts 1997, No. 383, § 1; 2001, No. 802, § 4; 2019, No. 910, § 5580.

Amendments. The 2019 amendment deleted “of the Department of Parks and Tourism” following “State Parks Division”.

13-5-402. Functions and duties.

(a) The Arkansas Museum of Natural Resources shall be developed and operated by the State Parks Division and shall be devoted primarily to the acquisition, cataloging, and display of machinery, equipment, and materials used in the oil boom in Arkansas.

(b) In addition, the museum shall solicit, purchase, or accept donations of maps, core drilling samples, and other records of geological or historical value to be made available to the public as a source of historical information concerning the geology and technology of the oil industry in this state.

History. Acts 1977, No. 310, § 2; 1979, No. 832, § 11; A.S.A. 1947, § 53-1202; Acts 1997, No. 383, § 2; 2001, No. 802, § 5; 2019, No. 910, § 5581.

Amendments. The 2019 amendment deleted “of the Department of Parks and Tourism” following “State Parks Division” in (a).

13-5-403. Museum site.

The Arkansas Museum of Natural Resources shall be established at a site to be approved by the State Parks Division, with the lands therefor, which shall consist of not fewer than five (5) acres, to be donated without cost to the State of Arkansas.

History. Acts 1977, No. 310, § 1; 1979, No. 832, § 10; 1985, No. 560, § 1; A.S.A. 1947, § 53-1201; Acts 1997, No. 383, § 3; 2001, No. 802, § 6; 2019, No. 910, § 5582.

Amendments. The 2019 amendment deleted “of the Department of Parks and Tourism” following “State Parks Division”.

13-5-404. [Repealed.]

Publisher’s Notes. This section, concerning the Arkansas Museum of Natural Resources Advisory Committee, was repealed by Acts 2017, No. 540, § 13. The section was derived from Acts 1977, No.

310, § 3; 1979, No. 832, § 12; 1985, No. 802, § 1; A.S.A. 1947, § 53-1203; Acts 1997, No. 250, § 78; 1997, No. 383, § 4; 2001, No. 802, § 7.

SUBCHAPTER 5 — COUNTY MUSEUMS

SECTION.

13-5-503. Commissions’ powers and duties.

13-5-505. Des Arc Archeological Museum

— Transfer to and assumption of ownership by Prairie County.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emer-

gency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-5-503. Commissions’ powers and duties.

County museum commissions established under the provisions of this subchapter shall have the following powers and duties:

- (1) To buy, lease, lend, acquire, and own real and personal property required in the housing and operation of the county museum;
- (2) To accept gifts, grants, or donations of real and personal property from the federal government, the State of Arkansas, and from other public or private groups or individuals, to be used for the purposes of this subchapter;
- (3) To receive and expend funds appropriated by the General Assembly for county museum purposes;
- (4) To acquire, preserve, and display items of historical or archeological interest;
- (5) To enter into agreements with other counties, municipalities, the state or federal government, or any agency or instrumentality thereof, or with any private museum or groups or persons to exchange or loan items of historical or archeological interest;
- (6) To enter into agreements with the Division of Arkansas Heritage and other public and private agencies or persons, for the purpose of sharing services and facilities, with the view that the historical and cultural resources of this state may be coordinated at the county and state levels for the benefit of the public of this state;
- (7) To enter into cooperative agreements under the Interlocal Cooperation Act, § 25-20-101 et seq., with one (1) or more adjoining counties to form a joint or regional museum, and, in those agreements, to establish the governing organization and procedures for the operation of the joint or regional museum, including costs, financial agreements, and contributions for the operation of and sharing in the cost of the operation of the joint or regional museum;
- (8) To promulgate reasonable rules for the operation of the museum, including the establishment, if deemed necessary, of reasonable admission charges to assist in defraying the cost of operating the museum;
- (9) To employ necessary personnel required in the maintenance and operation of the museum; and
- (10) To do all other things necessary to accomplish the purposes of this subchapter.

History. Acts 1977, No. 247, § 3; A.S.A. 1947, § 17-1903; Acts 2016 (3rd Ex. Sess.), No. 2, § 117; 2016 (3rd Ex. Sess.), No. 3, § 117; 2019, No. 910, § 5583.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely

and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 deleted “Arkansas History Commission, the” preceding “Department” in (6); and made a stylistic change.

The 2019 amendment substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (6).

13-5-505. Des Arc Archeological Museum — Transfer to and assumption of ownership by Prairie County.

(a) In the event the Prairie County Quorum Court shall establish a county museum and shall, in the ordinance establishing the county museum, elect to take over the ownership, management, and operation of the Des Arc Archeological Museum, the Department of Parks, Heritage, and Tourism is authorized and directed to convey to the Lower White River Museum State Park all rights, title, and interest of the State of Arkansas in the Des Arc Archeological Museum, to be thereafter operated, maintained, and improved by Prairie County as a part of the Lower White River Museum State Park.

(b) Any funds appropriated to the department by the General Assembly for the Des Arc Archeological Museum shall be remitted to the Prairie County Museum Commission on or before the fifteenth day after the beginning of each fiscal year for which the funds are appropriated and available.

History. Acts 1977, No. 247, § 5; A.S.A. 1947, § 17-1905; Acts 2019, No. 910, § 5584.

substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (a).

Amendments. The 2019 amendment

SUBCHAPTER 6 — ARKANSAS POST MUSEUM

SECTION.

13-5-601. Authorization.

13-5-602. Functions and duties.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-5-601. Authorization.

The State Parks Division is authorized and directed to develop and operate a state historical museum in Arkansas County to be known and operated as the “Arkansas Post Museum”.

History. Acts 1989, No. 482, § 1; 2001, No. 802, § 8; 2019, No. 910, § 5585.

Amendments. The 2019 amendment

deleted “of the Department of Parks and Tourism” following “State Parks Division”.

13-5-602. Functions and duties.

- (a) The Arkansas Post Museum shall be developed and operated by the State Parks Division and shall be devoted primarily to the acquisition, cataloging, and display of objects or materials which tell the story of the territorial settlement and development of Arkansas as a state and its relationship to the settlement of the lower Mississippi Valley.
- (b) With the approval of the Director of the State Parks Division, the museum shall solicit, purchase, or accept donations of objects or materials of historical value to be made available to the public as a source of historical information concerning the territorial development and settlement of Arkansas.

History. Acts 1989, No. 482, § 1; 2001, No. 802, § 9; 2019, No. 910, § 5586.

Amendments. The 2019 amendment

deleted “of the Department of Parks and Tourism” following “State Parks Division” in (a) and (b).

SUBCHAPTER 7 — DELTA CULTURAL CENTER

- SECTION.
- 13-5-702. Definitions.
- 13-5-703. Establishment.
- 13-5-704. Delta Cultural Center Policy Advisory Board.

- SECTION.
- 13-5-705. [Repealed.]
- 13-5-706. Powers.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-5-702. Definitions.

For the purposes of this subchapter:

- (1) "Board" means the Delta Cultural Center Policy Advisory Board appointed by the Governor;
- (2) "Center" means the Delta Cultural Center;
- (3) "Center director" means the Director of the Delta Cultural Center; and
- (4) [Repealed.]
- (5) [Repealed.]
- (6) "National board" means the national advisory board appointed by the Governor to broaden the perspective of the center's activities and programming.

History. Acts 1989, No. 109, § 2; 2019, No. 910, § 5587.

Amendments. The 2019 amendment repealed (4) and (5).

13-5-703. Establishment.

(a)(1) There is established the Delta Cultural Center which shall be a division of the Division of Arkansas Heritage. The center shall be located in Helena-West Helena.

(2) The Secretary of the Department of Parks, Heritage, and Tourism, with the advice and consent of the Governor, shall employ the Director of the Delta Cultural Center. All other employees of the center shall be employed by and serve at the pleasure of the secretary.

(b)(1) The center shall operate a program of temporary and permanent exhibits, a library and resource center, and live performances and shall provide information on related activities in other parts of the Arkansas Delta region.

(2) The attraction of visitors to the Arkansas Delta shall be a major goal of the center.

(c)(1) All budgeting, purchasing, and related management functions of the center shall be performed under the direction and supervision of the secretary.

(2) The secretary, after seeking the advice of the Delta Cultural Center Policy Advisory Board, shall promulgate any rules necessary for the implementation of this subchapter.

History. Acts 1989, No. 109, § 3; 2019, No. 910, § 5588.

Amendments. The 2019 amendment, in (a)(1), substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage" and "Helena-West Helena"

for "Helena"; substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Arkansas Heritage" twice in (a)(2) and twice in (c); and substituted "employ" for "appoint" in (a)(2).

13-5-704. Delta Cultural Center Policy Advisory Board.

(a) There is created the Delta Cultural Center Policy Advisory Board, which shall advise the Secretary of the Department of Parks, Heritage,

and Tourism, the Director of the Division of Arkansas Heritage, and staff of the Delta Cultural Center on:

- (1) The development of permanent and temporary exhibits;
- (2) A plan for the acquisition of resource materials; and
- (3) The development of educational and other programming.

(b)(1) The board shall consist of eleven (11) members.

(2)(A) The members shall be appointed by the Governor. The members appointed by the Governor shall be subject to confirmation by the Senate. The Governor shall make the appointments in such a manner that each race or ethnic group having a significant presence in the Arkansas Delta region shall be adequately represented on the board.

(B) The board members to be appointed by the Governor shall be:

(i) Two (2) residents of Phillips County who have exhibited an interest in the culture and heritage of the Delta;

(ii) A Delta blues musician;

(iii) Two (2) members to serve as academic advisors who shall be trained in the field of Delta folklore, history, or a related field;

(iv) [Repealed.]

(v) Three (3) members at large; and

(vi) Two (2) members as representatives of Main Street Helena.

(3) The board shall meet at least quarterly. Special meetings may be called by the chair or a majority of the board.

(c)(1) The members of the board appointed by the Governor shall serve for three-year terms.

(2) No member of the board shall be eligible for appointment to more than two (2) consecutive full terms.

(d) The chair will be elected by members for a one-year term.

(e) Any vacancy in the membership of the board other than by the expiration of the term of office shall be filled by the Governor for the balance of the term of the membership that became vacant.

(f) The members of the board shall receive no compensation for their services, but they may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1989, No. 109, § 4; 1997, No. 250, § 80; 1999, No. 1074, § 1; 2001, No. 1260, § 1; 2015, No. 1100, § 11; 2017, No. 720, § 1; 2019, No. 910, § 5589.

Amendments. The 2017 amendment repealed (b)(2)(B)(iv).

The 2019 amendment, in the introductory language of (a), inserted “Secretary of the Department of Parks, Heritage, and Tourism”, substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage”; and made stylistic changes.

13-5-705. [Repealed.]

Publisher's Notes. This section, concerning the Delta Cultural Center National Advisory Board, was repealed by

Acts 2017, No. 720, § 2. The section was derived from Acts 1989, No. 109, § 4.

13-5-706. Powers.

- (a) The Delta Cultural Center shall have the power to:
 - (1) Enter into contracts for the purchase, construction, lease, or other acquisition of real property to house the center and to acquire or construct necessary support facilities, including, but not limited to, overnight accommodations for visitors;
 - (2) Enter into contracts to purchase or lease personal property for use as exhibits or for use as research material related to the culture of the Delta; and
 - (3) Enter into professional service contracts with appropriate professionals to assist in the establishment of the center and the development and operation of the center’s programs and activities.
- (b) The center shall have the authority to accept gifts of real or personal property and money.
- (c)(1) The center shall have the authority to set fees related to the programs and services offered by the center, including, but not limited to, admission fees.
- (2) Income generated by fees shall be cash funds of the center to be used solely for the support of the center. Fee income shall be deposited in a bank account but shall be subject to appropriation by the General Assembly.
- (d)(1) The center may request the assistance of the Secretary of the Department of Parks, Heritage, and Tourism and any other appropriate state agency in establishing and operating the center and its programs.
- (2) The director of any state agency requested to assist in the establishment and operation of the center shall, within the limits of available personnel and resources, provide such assistance.

History. Acts 1989, No. 109, § 5; 2019, § 910, § 5590. substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (d)(1).

Amendments. The 2019 amendment

SUBCHAPTER 8 — ARKANSAS COTTON MUSEUM

SECTION.
13-5-801. Arkansas Cotton Museum established.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodedified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health,

and safety shall become effective on July 1, 2019”.

13-5-801. Arkansas Cotton Museum established.

The Department of Parks, Heritage, and Tourism is authorized to coordinate the establishment of a historical museum in Lee County, to be known and operated as the “Arkansas Cotton Museum”. The museum shall be established in association with the University of Arkansas Cooperative Extension Service.

History. Acts 1999, No. 1121, § 1; 2019, No. 910, § 5591.

Amendments. The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of

Parks and Tourism” in the first sentence; substituted “Cooperative Extension Service” for “Agricultural Experiment Station in Lee County” in the second sentence; and made a stylistic change.

SUBCHAPTER 9 — MOSAIC TEMPLARS OF AMERICA CENTER FOR AFRICAN-AMERICAN CULTURE AND BUSINESS ENTERPRISE

SECTION.

13-5-901. Definitions.

13-5-902. Establishment — Administration.

SECTION.

13-5-903. Advisory board.

13-5-904. Powers of center.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-5-901. Definitions.

For the purposes of this subchapter:

(1) “Board” means the Mosaic Templars of America Center for African-American Culture and Business Enterprise Advisory Board created by this subchapter;

(2) “Center” means the Mosaic Templars of America Center for African-American Culture and Business Enterprise created by this subchapter;

(3) “Center director” means the Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise;

(4) [Repealed.]

(5) [Repealed.]

History. Acts 2001, No. 1176, § 1; 2019, No. 910, § 5592.

Amendments. The 2019 amendment repealed (4) and (5).

13-5-902. Establishment — Administration.

(a)(1) There is established the Mosaic Templars of America Center for African-American Culture and Business Enterprise which shall be a division of the Division of Arkansas Heritage.

(2)(A) The Secretary of the Department of Parks, Heritage, and Tourism, with the advice and consent of the Governor, shall appoint the Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise.

(B) All other employees of the center shall be employed by and serve at the pleasure of the secretary in compliance with state law.

(b) The center shall operate a program of temporary and permanent exhibits, a library and resource center, and live performances. The attraction of visitors shall be a major goal of the center.

(c)(1) All budgeting, purchasing, and related management functions of the center shall be performed under the direction and supervision of the secretary, in consultation with the director in compliance with state law.

(2) The secretary, after seeking the advice of the Mosaic Templars of America Center for African-American Culture and Business Enterprise Advisory Board, shall promulgate any rules necessary for the implementation of this subchapter.

History. Acts 2001, No. 1176, § 2; 2019, No. 910, § 5593.

Amendments. The 2019 amendment substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (a)(1); substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Department of Arkansas Heritage” in (a)(2)(A) and

(a)(2)(B); inserted “Secretary of the Department of Parks, Heritage, and Tourism, in consultation with the” in (c)(1); and substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise” in (c)(2).

13-5-903. Advisory board.

(a) There is created the Mosaic Templars of America Center for African-American Culture and Business Enterprise Advisory Board which shall advise the Director of the Arkansas Heritage Division, the Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise, and staff of the Mosaic Templars of America Center for African-American Culture and Business Enterprise on the development of permanent and temporary exhibits, a plan

for acquisition of resource materials, and development of educational and other programming.

(b)(1) The board shall consist of nine (9) members appointed as follows:

(A) Three (3) members shall be appointed by the Speaker of the House of Representatives;

(B) Three (3) members shall be appointed by the President Pro Tempore of the Senate; and

(C) Three (3) members shall be appointed by the Governor.

(2)(A) The terms of office of the initial members of the board shall be determined by lot so that two (2) members serve an initial one-year term, two (2) members serve an initial two-year term, two (2) members serve an initial three-year term, and two (2) members serve an initial four-year term.

(B) Successor members shall serve four-year terms.

(3) No member shall serve more than two (2) four-year terms.

(c) The board shall meet at least quarterly. Special meetings may be called by the chair or a majority of the board.

(d) The chair will be elected by members for a one-year term.

(e) Any vacancy in the membership of the board shall be filled by the appointing authority.

(f) The members of the board shall receive no compensation for their services, but they may receive expense reimbursement in accordance with § 25-16-902.

History. Acts 2001, No. 1176, § 3; 2017, No. 720, § 3; 2019, No. 910, § 5594. bers" in the introductory language of (b)(1).

Amendments. The 2017 amendment The 2019 amendment inserted "Director of the Arkansas Heritage Division" in deleted "with at least one (1) from each congressional district" following "mem- (a).

13-5-904. Powers of center.

(a) The Mosaic Templars of America Center for African-American Culture and Business Enterprise shall have the power to enter into, with the consent of the Secretary of the Department of Parks, Heritage, and Tourism:

(1) Contracts for the purchase, construction, lease, or other acquisition of real property to house the center and to acquire or construct necessary support facilities;

(2) Contracts to purchase or lease personal property for use as exhibits or for use as research material; and

(3) Professional service contracts with appropriate professionals to assist in the establishment of the center and the development and operation of the center's programs and activities.

(b) The center shall have the authority to accept gifts of real or personal property and money.

(c)(1) The center shall have the authority to set fees related to the programs and services offered by the center, including, but not limited to, admission fees.

(2)(A) Income generated by fees shall be cash funds of the center to be used solely for the support of the center.

(B) Fee income shall be deposited in a bank account but shall be subject to appropriation by the General Assembly.

(d) The center may request the assistance of other appropriate state agencies in establishing and operating the center and its programs.

History. Acts 2001, No. 1176, § 4; of the Department of Parks, Heritage, and Tourism” in the introductory language of 2019, No. 910, § 5595. (a).

Amendments. The 2019 amendment added “with the consent of the Secretary

SUBCHAPTER 10 — MUSEUM PROPERTY ACT

SECTION.

13-5-1004. Procedure for obtaining ownership of an abandoned loan.

SECTION.

13-5-1013. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-5-1004. Procedure for obtaining ownership of an abandoned loan.

(a) By complying with subsection (b) or subsection (c) of this section, a museum may obtain ownership of a loan if:

(1) The loan agreement has expired; or

(2) Both:

(A) The loan has been in the museum’s custody for more than ten (10) years; and

(B) The loan agreement does not provide for a longer term for the loan or another disposition.

(b)(1) If the address of the lender is known, the museum shall send the notice required in subsection (d) of this section to the lender by certified or registered mail, return receipt requested.

(2)(A) If the return receipt showing receipt of the notice is returned and the lender fails to object within ninety (90) days of the date of the

return receipt, the loan shall be considered abandoned and its ownership shall vest in the museum.

(B) If the museum did not receive a return receipt showing receipt of the notice, the museum may proceed in accordance with the provisions of subsection (c) of this section.

(c)(1) If the museum is unable to determine the identity of the lender or the lender's address, the museum shall publish the notice required under subsection (d) of this section at least one (1) time a week for four (4) consecutive weeks in at least one (1) newspaper with general circulation in:

(A) The county:

(i) Of last known address of the lender; and

(ii) In which the museum is located; or

(B) The State of Arkansas.

(2) If the lender fails to object within ninety (90) days from the last date of the publication, the loan shall be considered abandoned and its ownership shall vest in the museum.

(d) The notice shall contain:

(1) The name, address, and telephone number of the museum;

(2) A complete description of the loan;

(3) The lender's identity if that information is available from the museum's records;

(4) The lender's last known address if that information is available from the museum's records; and

(5) A statement that the loan shall be considered abandoned and shall become the property of the museum if the lender or claimant does not make a timely objection in accordance with subsection (b) or subsection (c) of this section, whichever is applicable.

History. Acts 2005, No. 2242, § 1; 2017, No. 259, § 1.

Amendments. The 2017 amendment inserted "Both:" in (a)(2).

13-5-1013. Rules.

The Department of Parks, Heritage, and Tourism shall promulgate rules to carry out the provisions of this subchapter, including, but not limited to, rules concerning the form and substance of loan agreements.

History. Acts 2005, No. 2242, § 1; 2019, No. 910, § 5596.

Amendments. The 2019 amendment substituted "Department of Parks, Heri-

tage, and Tourism" for "Department of Parks and Tourism, in consultation with the Department of Arkansas Heritage".

CHAPTER 6

ARCHEOLOGICAL RESEARCH

SUBCHAPTER.

2. ARCHEOLOGICAL SURVEY.

SUBCHAPTER 2 — ARCHEOLOGICAL SURVEY

SECTION.

13-6-205. Appropriations — Disposition
of funds.

13-6-205. Appropriations — Disposition of funds.

(a) Funds appropriated for the Arkansas Archeological Survey shall be by specific appropriation separate and distinct from funds appropriated for the University of Arkansas and shall be used exclusively for the purposes of the survey.

(b) All expenditures of funds appropriated for the survey shall be made in accordance with and subject to the state purchasing laws, the state travel laws and rules, and other laws and rules applicable thereto.

(c) The survey is authorized to enter into contracts with and to receive and expend gifts, grants, or other funds from federal, private, or other sources to be used in furtherance of the program of the survey within the limitations of the maximum annual salary rates as set forth by law.

History. Acts 1967, No. 39, § 2; A.S.A. 1947, § 9-1010; Acts 2003, No. 1638, § 12; 2019, No. 315, § 981.

Amendments. The 2019 amendment substituted “rules” for “regulations” twice in (b).

CHAPTER 7

HISTORIC PRESERVATION

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. OLD STATE HOUSE COMMISSION.
- 3. HISTORIC ARKANSAS MUSEUM COMMISSION.
- 4. PRAIRIE GROVE BATTLEFIELD COMMISSION. [REPEALED.]
- 5. HISTORIC PRESERVATION LOAN ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 13-7-103. Construction.
- 13-7-104. Administration of program.
- 13-7-105. Arkansas Archeological Survey to perform archeological functions.
- 13-7-106. Arkansas Historic Preservation Program — Powers and duties.

SECTION.

- 13-7-107. State Historic Preservation Officer — Appointment and duties.
- 13-7-110. Arkansas Historic Building Code authorized.
- 13-7-111. Signage for war relocation centers.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, pro-

vided:
“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

Effective Dates. Identical Acts 2016

(3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-7-103. Construction.

Nothing in this subchapter shall be construed to repeal or diminish any of the powers, functions, or responsibilities of the Department of Parks, Heritage, and Tourism, the State Parks, Recreation, and Travel Commission, the Old State House Commission, and the Arkansas Archeological Survey, as prescribed by law.

History. Acts 1977, No. 480, § 10; A.S.A. 1947, § 8-913; Acts 2016 (3rd Ex. Sess.), No. 2, § 118; 2016 (3rd Ex. Sess.), No. 3, § 118; 2019, No. 910, § 5597.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “Department of Arkansas

Heritage” for “Arkansas History Commission”.

The 2019 amendment substituted “responsibilities of the Department of Parks, Heritage, and Tourism” for “responsibilities of the Department of Arkansas Heritage”.

13-7-104. Administration of program.

The Division of Arkansas Heritage is designated as the agency of this state to develop and implement a statewide program of historic preservation.

History. Acts 1977, No. 480, § 3; A.S.A. 1947, § 8-906; Acts 2019, No. 910, § 5598.

Amendments. The 2019 amendment substituted “Department of Parks, Heri-

tage, and Tourism, Division of Arkansas Heritage” for “Department of Arkansas Heritage”.

13-7-105. Arkansas Archeological Survey to perform archeological functions.

(a) All archeological functions of the program of historic preservation, including that under 54 U.S.C. § 302301 et seq. and as provided for under this subchapter shall be performed by the Arkansas Archeological Survey for the purpose of statewide archeological investigation and preservation.

(b) In furtherance of the development and implementation of a statewide program of historic preservation, the survey and the Arkansas Historic Preservation Program of the Division of Arkansas Heritage shall cooperate in the fullest manner possible.

History. Acts 1977, No. 480, § 5; A.S.A. substituted "Division of Arkansas Heritage", § 8-908; Acts 2019, No. 910, § 5599. **Amendments.** The 2019 amendment substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage" in (b).

13-7-106. Arkansas Historic Preservation Program — Powers and duties.

(a) The Arkansas Historic Preservation Program, a division of the Division of Arkansas Heritage, under the State Historic Preservation Officer, shall have the following powers and duties:

(1) To implement the development of a State Historic Preservation Plan as contemplated by 54 U.S.C. § 302301 et seq., but not necessarily restricted thereto, and to be responsible for the historical, architectural, and cultural portions of that plan;

(2) To conduct surveys and otherwise develop the data necessary for the historical, architectural, and cultural portions of the plan;

(3) To cooperate with the Arkansas Archeological Survey which will be responsible for the archeological portion of the statewide program for historic preservation and the plan as provided for in § 13-7-105;

(4) To coordinate the surveys and other programs of activities of all state and private agencies in connection with projects supported by federal funds provided to the Division of Arkansas Heritage to implement 54 U.S.C. § 302301 et seq. and all cash funds or appropriated state funds made available to the division for the program;

(5) To allocate any federal funds which are provided to implement 54 U.S.C. § 302301 et seq. to those state agencies or private or other organizations which are professionally staffed and capable of carrying out the programs provided for by 54 U.S.C. § 302301 et seq.;

(6) To accept and administer funds received from the state or federal government or any other governmental agencies or from any private source in furtherance of the provisions of this subchapter; provided, that administration and acceptance does not include cash or appropriated funds made available to the Arkansas Archeological Survey from whatever source;

(7) To reimburse members of committees appointed by the Governor for expenses in accordance with § 25-16-901 et seq.;

(8) To enlist the cooperation and assistance of the Old State House Commission, the Arkansas State Archives, the State Parks, Recreation, and Travel Commission, and all other agencies for historical, architectural, and cultural purposes, to the end that all activities shall be developed in accordance with the plan as contemplated by this subchapter and 54 U.S.C. § 302301 et seq., and in accordance with existing state laws pertaining to the duties and responsibilities of each of the agencies indicated in this subdivision (a)(8);

(9) To cooperate with federal, state, and local government agencies in surveying the state for historic properties to be included in the State Register of Historic Places or National Register of Historic Places, or both, in the planning and conduct of specific undertakings affecting historic properties and preservation objectives, and, generally, in overall planning for the use of land; and

(10) To perform all other functions necessary in the furtherance of the purpose of this subchapter and in coordinating and implementing the participation by this state in the purposes contemplated by 54 U.S.C. § 302301 et seq.

(b)(1) The program is authorized to:

(A) Enter into contracts;

(B) Receive and expend gifts, grants, or other funds from federal or private sources; and

(C) Charge fees for conferences, tax certification, easements, and the professional review of federal undertakings for their impact on cultural resources.

(2) These funds shall be deposited in the cash fund of the program.

(c)(1) The program is authorized to acquire in the name of the state sites, buildings, and objects of historical value by gift, purchase, or otherwise.

(2) No property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the state for the payment of the property, or the maintenance or improvement thereof after acquisition, in the absence of the appropriation of funds by the General Assembly for that purpose.

(3) The interest in any land authorized to be acquired by this subchapter may be fee simple or any lesser interest as determined by the State Historic Preservation Officer with the advice of the State Review Committee for Historic Preservation to be reasonably necessary to accomplish the purpose of this subchapter.

History. Acts 1977, No. 480, § 8; 1983, No. 663, § 1; A.S.A. 1947, § 8-911; Acts 1997, No. 250, § 81; 2016 (3rd Ex. Sess.), No. 2, § 119; 2016 (3rd Ex. Sess.), No. 3, § 119; 2019, No. 910, § 5600.

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted "State Archives" for "History Commission" in (a)(9).

The 2019 amendment substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage" in the introductory language of (a); in (a)(4), substituted "Division of Arkansas Heritage" for the first occurrence of "department" and substituted "division" for the second occurrence of "department"; deleted (a)(6) and redesignated the remain-

ing subdivisions accordingly; and substituted “(a)(8)” for “(a)(9)” in (a)(8).

13-7-107. State Historic Preservation Officer — Appointment and duties.

(a) The Governor shall designate the State Historic Preservation Officer who shall be an employee of the Division of Arkansas Heritage.

(b) The State Historic Preservation Officer shall be responsible for conducting relations with the representatives of the federal government, the respective states, governmental units within Arkansas, state agencies, organizations, and individuals with regard to matters of historic preservation.

(c) The State Historic Preservation Officer is charged with the responsibility for the professional and fiscal conduct of the Arkansas Historic Preservation Program, including the program carried out under 54 U.S.C. § 302301 et seq.

History. Acts 1977, No. 480, § 4; A.S.A. 1947, § 8-907; 2019, No. 910, § 5601. substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (a).
Amendments. The 2019 amendment

13-7-110. Arkansas Historic Building Code authorized.

(a) The Arkansas Historic Preservation Program may by rule promulgated pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., adopt an Arkansas Historic Building Code for buildings listed individually on the National Register of Historic Places, buildings eligible for listing individually on the National Register of Historic Places, and buildings listed as a contributing resource in a National Register Historic District.

(b) To the extent that the provisions of the Arkansas Historic Building Code adopted by the program conflict with any state or local building or fire code, the Arkansas Historic Building Code shall prevail as to the buildings described in subsection (a) of this section.

History. Acts 1997, No. 935, § 1; 2019, No. 315, § 982. **Amendments.** The 2019 amendment substituted “rule” for “regulation” in (a).

13-7-111. Signage for war relocation centers.

(a) The General Assembly finds that:

(1) There are only two (2) war relocation centers for people of Japanese descent that were operated by the War Relocation Authority during World War II in Arkansas: Jerome and Rohwer;

(2) Rohwer is recognized as a National Historic Landmark for its importance in American history and importance to Japanese Americans and is an important part of Arkansas’s history; and

(3) Jerome is an equally valuable part of the history of Arkansas and the history of many Japanese Americans.

(b)(1) The Division of Arkansas Heritage shall erect signs to inform visitors about the historic landmarks of Jerome and Rohwer in Southeast Arkansas, subject to the appropriation and availability of funding.

(2) Any signs placed in a right-of-way of a state highway shall be approved by the State Highway Commission.

(c) The signs shall include the following about Jerome and Rohwer:

- (1) Information about the size and locations;
- (2) Site plans;
- (3) Photographs;
- (4) Dates of occupancy; and
- (5) Other information as determined by the Division of Arkansas Heritage that would be of value to visitors of Jerome and Rohwer.

History. Acts 2007, No. 1153, § 1; substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (b)(1) and (c)(5).
2019, No. 910, §§ 5602, 5603.

Amendments. The 2019 amendment

SUBCHAPTER 2 — OLD STATE HOUSE COMMISSION

SECTION.	SECTION.
13-7-203. Officers — Rules — Meetings — Reports.	13-7-205. Powers and duties.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-7-203. Officers — Rules — Meetings — Reports.

- (a) The Governor shall designate one (1) of the members of the Old State House Commission to serve as its chair until the expiration of his or her term or at the pleasure of the Governor.
- (b) The commission shall select from its membership from time to time a vice chair and a secretary.
- (c) The commission shall adopt and may modify rules for the conduct of business and shall keep a record of its transactions, findings, and determinations, which record shall be public.
- (d) The rules shall provide for regular meetings and for special meetings at the call of the chair, or of the vice chair if he or she is for any

reason the acting chair, either at his or her own instance or upon the written request of at least five (5) members.

(e) A quorum of the commission shall consist of not fewer than five (5) members present at any regular or special meeting, and a majority affirmative vote of the members so present shall be sufficient for the disposition of any business.

(f) By the first Monday in September of each year, it shall be the duty of the commission to cause to be prepared and presented to the Secretary of the Department of Parks, Heritage, and Tourism a report showing the operation of the commission during the previous fiscal year and containing recommendations.

History. Acts 1947, No. 256, § 3; A.S.A. 1947, § 8-203; Acts 1951, No. 385, § 1; 2009, No. 558, § 1; 2019, No. 910, §§ 5604, 5605.

deleted the second sentence in (b); and substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Governor" in (f).

Amendments. The 2019 amendment

13-7-205. Powers and duties.

The Old State House Commission shall:

(1) Take over all records, files, books, and papers in the custody or control of persons with custody or control of sites, buildings, and objects which are marked for preservation for historical purposes in charge of the commission;

(2) Secure, collate, and preserve drawings, plans, photographs, and other data of historic sites, buildings, and objects;

(3) Make surveys of historic sites, buildings, and objects for the purpose of determining which possess value as illustrative of the history of the state;

(4) Make diligent researches to obtain accurate historical facts and information relating to sites, buildings, and objects;

(5)(A) Acquire in the name of the state sites, buildings, and objects of historical value by gift, purchase, or otherwise.

(B) However, no such property shall be acquired, or contract or agreement for the acquisition thereof made, which will obligate the state for the payment of the property, or the maintenance or improvement thereof after acquisition, in the absence of the appropriation of funds by the General Assembly for the purpose;

(6) Restore, reconstruct, rehabilitate, preserve and maintain historic sites, buildings and objects, and the grounds and the approaches thereto;

(7) Operate and manage historic sites, buildings, and objects for the benefit of the public, which authority shall include the power to charge reasonable visitation and rental fees and grant permits for the use of land or building space when necessary or desirable to accommodate the public, or to facilitate administration, or for other appropriate purposes;

(8) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to

Arkansas historic sites, buildings, and objects and make reasonable charges for the dissemination of the facts or information;

(9)(A) Perform any and all acts, and make and publicly post such rules not inconsistent with law as may be necessary and proper to carry out the provisions of this subchapter.

(B) The purpose of the rules shall be to carry into effect the commission's implied powers, to be ascertained from the express provisions of this subchapter.

(C) The rules shall be deposited with the Secretary of State and that official's receipt taken.

(D) Any person violating any of these rules shall be guilty of a misdemeanor, punishable by fine in any amount not exceeding five hundred dollars (\$500) or by imprisonment not exceeding one (1) year, or by both fine and imprisonment; and

(10) Receive administrative support and be provided all employees necessary to carry out the duties of the commission from the Department of Parks, Heritage, and Tourism.

History. Acts 1947, No. 256, § 4; 1963, No. 208, § 1; A.S.A. 1947, § 8-204; Acts 2013, No. 717, § 1; 2019, No. 910, § 5606.

Amendments. The 2019 amendment added (10).

SUBCHAPTER 3 — HISTORIC ARKANSAS MUSEUM COMMISSION

SECTION.

13-7-302. Commission created — Duties and powers.

SECTION.

13-7-304. Commission accounts.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

13-7-302. Commission created — Duties and powers.

(a) The Historic Arkansas Museum Commission is established and shall have the following powers:

(1) To have charge of the work of restoring the old Arkansas Territorial Capitol and the other historic buildings on the land;

(2) To furnish the buildings with furniture appropriate to the period when they were occupied;

- (3) To improve the appearance of the grounds surrounding them;
- (4) To maintain a historic center to be known as the Historic Arkansas Museum; and
- (5) To secure any additional funds and contributions of labor and material that they may be able to obtain for the project from any United States Government agency and from private subscriptions to assist in defraying the cost of restoration and to disburse in the restoration all the funds so received.

(b) The commissioners shall have power to request the Department of Parks, Heritage, and Tourism to employ all architects and other employees necessary in carrying out restoration and in maintaining a historic center after restoration is accomplished.

(c) All powers, duties, assets, and liabilities of the Arkansas Territorial Capitol Restoration Commission shall hereafter be powers, duties, assets, and liabilities of the Historic Arkansas Museum Commission.

History. Acts 1939, No. 388, §§ 2, 3; A.S.A. 1947, §§ 8-102, 8-103; Acts 2001, No. 69, § 1; 2019, No. 910, § 5607.

substituted “request the Department of Parks, Heritage, and Tourism to employ all” for “employ” in (b).

Amendments. The 2019 amendment

13-7-304. Commission accounts.

The members of the Historic Arkansas Museum Commission shall keep strict account of all moneys received and disbursed by them and by their order and shall file a statement thereof annually with the Secretary of the Department of Finance and Administration, who shall properly check and audit the statement of account and the books of the commission.

History. Acts 1939, No. 388, § 4; A.S.A. 1947, § 8-104; Acts 2019, No. 910, § 3377.

Amendments. The 2019 amendment substituted “Secretary of the Department

of Finance and Administration” for “Director of the Department of Finance and Administration”.

SUBCHAPTER 4 — PRAIRIE GROVE BATTLEFIELD COMMISSION

SECTION.

13-7-401 — 13-7-405. [Repealed.]

13-7-401 — 13-7-405. [Repealed.]

Publisher’s Notes. This subchapter, concerning the Prairie Grove Battlefield Commission, was repealed by Acts 2019, No. 910, § 5608, effective July 1, 2019, and by Acts 2019, No. 1091, § 3, effective July 24, 2019. The subchapter was derived from the following sources:

13-7-401. Acts 1957, No. 197, §§ 1, 2; A.S.A. 1947, §§ 8-601, 8-602; Acts 2005, No. 1278, § 1.

13-7-402. Acts 1957, No. 197, § 3; A.S.A. 1947, § 8-603; Acts 1997, No. 250, § 83; 2005, No. 1278, § 1.

Former §§ 13-7-403 — 13-7-405, were

repealed by Acts 2005, No. 1278, § 1. The sections were derived from the following sources:

13-7-403. Acts 1957, No. 197, § 4; A.S.A. 1947, § 8-604.

13-7-404. Acts 1957, No. 197, § 5; A.S.A. 1947, § 8-605.

13-7-405. Acts 1957, No. 197, § 6; A.S.A. 1947, § 8-606.

SUBCHAPTER 5 — HISTORIC PRESERVATION LOAN ACT

SECTION.

13-7-504. Fund created — Administration.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

13-7-504. Fund created — Administration.

(a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State, a revolving loan fund which shall be known as the "Historic Preservation Revolving Loan Fund". The Arkansas Historic Preservation Program shall administer the Historic Preservation Revolving Loan Fund and may make loans from the Historic Preservation Revolving Loan Fund in accordance with this subchapter.

(b) The program shall deposit into the Historic Preservation Revolving Loan Fund all receipts from the repayment of loans made pursuant to this subchapter.

(c) The program may deposit into the Historic Preservation Revolving Loan Fund any private funds made available for the purposes of this subchapter and any federal funds made available for the purpose of making grants or loans to owners of registered historic properties. Such funds may be used by the program to make or to subsidize loans made pursuant to this subchapter.

(d) The program may deposit into the Historic Preservation Revolving Loan Fund any portion of the real estate transfer taxes deemed appropriate by the program.

(e) In the event the program ceases to make loans from the Historic Preservation Revolving Loan Fund, any moneys remaining in the Historic Preservation Revolving Loan Fund may be transferred to the

Natural and Cultural Resources Historic Preservation Fund, as certified to the Chief Fiscal Officer of the State by the Division of Arkansas Heritage.

History. Acts 1993, No. 156, § 4; 2019, No. 910, § 5609. substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (e).
Amendments. The 2019 amendment

CHAPTER 8
ARKANSAS ARTS COUNCIL

- SUBCHAPTER.
- 1. ARKANSAS STATE ARTS ACT OF 1971.
 - 2. PUBLIC ART PROGRAM. [REPEALED.]

SUBCHAPTER 1 — ARKANSAS STATE ARTS ACT OF 1971

- | | |
|------------------------------------------|------------------------------|
| SECTION. | SECTION. |
| 13-8-103. Establishment and composition. | 13-8-105. Director. |
| | 13-8-106. Powers and duties. |

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-8-103. Establishment and composition.

- (a) There is established the Arkansas Arts Council under the laws of the State of Arkansas and under the jurisdiction and supervision of the Division of Arkansas Heritage.
- (b)(1) The Arkansas Arts Council shall consist of an advisory council and a director.
- (2) The Advisory Council of the Arkansas Arts Council shall develop and implement a comprehensive statewide program for the support of the arts in Arkansas pursuant to this subchapter.
- (3) The Director of the Arkansas Arts Council shall administer the provisions of this subchapter and the rules and orders established under this subchapter.

History. Acts 1971, No. 359, § 3; A.S.A. 1947, § 6-1003; Acts 2003, No. 608, § 4; 2005, No. 1962, § 54; 2019, No. 910, § 5610.

Amendments. The 2019 amendment, in (a), deleted “as a separate and distinct agency” following “Arkansas Arts Coun-

cil”, and substituted “Division of Arkansas Heritage of the Department of Parks, Heritage, and Tourism” for “Department of Arkansas Heritage”; substituted “a director” for “an executive director” in (b)(1); and substituted “Director” for “Executive Director” in (b)(3).

13-8-105. Director.

(a) The Director of the Arkansas Arts Council shall:

(1) Be the ex officio secretary of the Advisory Council of the Arkansas Arts Council but shall have no vote on matters coming before the Arkansas Arts Council;

(2) Shall be an employee of the Department of Parks, Heritage, and Tourism; and

(3) Shall be employed by the Secretary of the Department of Parks, Heritage, and Tourism in consultation with the Arkansas Arts Council.

(b) The director’s salary and expenses of his or her office shall be fixed by the General Assembly within amounts available therefor by appropriation.

(c) The Advisory Council of the Arkansas Arts Council by resolution duly adopted may delegate to the director any of the powers and duties vested in or imposed upon it by this subchapter, and the delegated powers and duties may be exercised by the director in the name of the Arkansas Arts Council.

History. Acts 1971, No. 359, § 3; A.S.A. 1947, § 6-1003; Acts 2003, No. 608, § 6; 2019, No. 910, § 5611.

Amendments. The 2019 amendment

substituted “Director” for “Executive director” in the section heading; rewrote (a); and deleted “executive” preceding “director” throughout the section.

13-8-106. Powers and duties.

(a)(1) The Arkansas Arts Council shall be the official agency of the State of Arkansas for the development and coordination of a comprehensive statewide program for the arts.

(2) In general, but not by way of limitation, the Advisory Council of the Arkansas Arts Council shall have and exercise the following powers and duties:

(A) To advise the Secretary of the Department of Parks, Heritage, and Tourism and General Assembly on matters relating to the arts;

(B) To hold both public and private hearings for the purposes of furthering the objectives of this subchapter and to promulgate and adopt rules for the performance of its duties under this section;

(C) To enter into agreements for any purpose consistent with the objectives and purposes of this subchapter with:

(i) Other states or with the United States or any agency or instrumentality of the United States having duties or functions similar to the Arkansas Arts Council;

(ii) Private associations or corporations;

- (iii) Private or public colleges or universities;
- (iv) Any public or private school; or
- (v) Individual persons; and

(D) To do any and all other acts or things as may be deemed necessary and convenient by the Advisory Council of the Arkansas Arts Council to foster and promote the development of the arts in this state.

(b) Through the Advisory Council of the Arkansas Arts Council, the Arkansas Arts Council shall establish and carry out a program of grants-in-aid to groups or, in appropriate cases, to individuals engaged in or concerned with the arts for the purpose of enabling them to provide or support in Arkansas, as follows:

(1) Productions that have substantial artistic and cultural significance, giving emphasis to creativity and the maintenance and encouragement of professional excellence;

(2) Projects that will encourage and assist artists and enable them to achieve standards of professional excellence; and

(3) Other relevant projects, including surveys, research, education, and planning in the arts.

(c)(1) The Arkansas Arts Council shall be the sole and official agency of this state to receive any funds allocated and disbursed to the State of Arkansas by the United States or any agency or instrumentality thereof pursuant to the National Foundation on the Arts and Humanities Act of 1965, 20 U.S.C. § 951 et seq., as well as funds received for any program related to the arts and not expressly designated for some other state agency and to disburse the funds in accordance with the terms and conditions, if any, relating to the grants.

(2) The Director of the Arkansas Arts Council shall be the Governor's liaison officer to implement the National Foundation on the Arts and Humanities Act of 1965, 20 U.S.C. § 951 et seq.

(3) All programs of grants-in-aid as described in this section shall be administered by the director.

(d) The Arkansas Arts Council shall be the sole and official agency of this state authorized to accept and receive, in addition to federal grants, any money and real and personal property donated, bequeathed, or devised for any purpose relating to the development and expansion of the arts and not expressly designated for some other state agency and to disburse and utilize those gifts for the purposes of this subchapter.

(e)(1) The Arkansas Arts Council is authorized to establish and collect reasonable fees for, but not limited to:

- (A) Advertising in newsletters;
- (B) Requested mailing list labels; and
- (C) Conference registration.

(2) The fees collected shall be deposited in a financial institution in this state and shall be used to support services that conform to the purposes of this subchapter.

(f) The Arkansas Arts Council shall submit an annual report to the Secretary of the Department of Parks, Heritage, and Tourism as of June

30 of each year, summarizing the Arkansas Arts Council's activities, expenditures, and grants of money or property from all sources for the preceding year. This report shall include recommendations directed toward furthering the purposes of this subchapter as the Arkansas Arts Council deems appropriate.

History. Acts 1971, No. 359, § 4; 1985, No. 571, § 1; A.S.A. 1947, § 6-1004; Acts 2003, No. 608, § 7; 2013, No. 715, § 1; 2019, No. 910, §§ 5612-5614.

Amendments. The 2019 amendment

substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Governor" in (a)(1)(A) and (f); and substituted "director" for "executive director" in (c)(2) and (c)(3).

SUBCHAPTER 2 — PUBLIC ART PROGRAM

SECTION.

13-8-201 — 13-8-209. [Repealed.]

13-8-201 — 13-8-209. [Repealed.]

Publisher's Notes. This subchapter, concerning the Public Art Program, was repealed by Acts 2017, No. 720, § 4. The subchapter was derived from the following sources:

13-8-201. Acts 1985, No. 1079, § 1; A.S.A. 1947, § 6-1005.

13-8-202. Acts 1985, No. 1079, § 3; A.S.A. 1947, § 6-1007.

13-8-203. Acts 1985, No. 1079, § 2; A.S.A. 1947, § 6-1006.

13-8-204. Acts 1985, No. 1079, § 5; A.S.A. 1947, § 6-1009.

13-8-205. Acts 1985, No. 1079, § 6;

A.S.A. 1947, § 6-1010; Acts 1997, No. 250, § 85; 2003, No. 364, §§ 1, 2.

13-8-206. Acts 1985, No. 1079, § 7; A.S.A. 1947, § 6-1011; Acts 1997, No. 250, § 86.

13-8-207. Acts 1985, No. 1079, § 3; A.S.A. 1947, § 6-1007; Acts 2007, No. 1273, § 1.

13-8-208. Acts 1985, No. 1079, § 4; A.S.A. 1947, § 6-1008.

13-8-209. Acts 1985, No. 1079, § 8; A.S.A. 1947, § 6-1012; Acts 2003, No. 364, § 3; 2015 (1st Ex. Sess.), No. 7, § 7; 2015 (1st Ex. Sess.), No. 8, § 7.

CHAPTER 9

ARKANSAS ENTERTAINERS HALL OF FAME BOARD

SECTION.

13-9-101 — 13-9-105. [Repealed.]

13-9-101 — 13-9-105. [Repealed.]

Publisher's Notes. This subchapter, concerning the Arkansas Entertainers Hall of Fame Board, was repealed by Acts 2017, No. 776, § 3, effective January 1, 2018. The subchapter was derived from the following sources:

13-9-101. Acts 1985, No. 671, § 1; A.S.A. 1947, § 5-122; Acts 1987, No. 467, § 1; 1993, No. 703, § 1; 1997, No. 250, § 87; 1997, No. 255, § 4; 2001, No. 1288, § 5; 2005, No. 2103, § 35.

13-9-103. Acts 1985, No. 671, § 3;

A.S.A. 1947, § 5-124; Acts 1987, No. 467, § 3; 1997, No. 255, § 5.

13-9-104. Acts 1985, No. 671, § 4; A.S.A. 1947, § 5-125; Acts 1997, No. 255, § 6.

13-9-105. Acts 1985, No. 671, § 5; A.S.A. 1947, § 5-126.

Former § 13-9-102, concerning office space and staff, was repealed by Acts 1997, No. 255, § 7. The section was derived from Acts 1985, No. 671, § 2; A.S.A. 1947, § 5-123; Acts 1987, No. 467, § 2.

CHAPTER 10

ARKANSAS MEDAL OF HONOR COMMISSION

SECTION.

13-10-101. Creation — Duties.

Publisher's Notes. Former chapter 10 was repealed by Acts 2001, No. 783, § 2. The former chapter was derived from Acts 1997, No. 1217, § 1, and Acts 1999, No. 556, § 1.

Former chapter 10, concerning county record retention, was repealed by Acts

1991, No. 800, § 11. The former chapter was derived from the following sources:

13-10-101. Acts 1989, No. 573, § 1.

13-10-102. Acts 1989, No. 573, § 2.

13-10-103. Acts 1989, No. 573, § 3.

13-10-104. Acts 1989, No. 573, §§ 4, 5.

For current law, see § 13-4-301 et seq.

13-10-101. Creation — Duties.

(a) There is created the Arkansas Medal of Honor Commission.

(b) The Arkansas Medal of Honor Commission shall be composed of:

(1) The Secretary of State, or his or her designee; and

(2) Four (4) commissioners appointed by the Governor.

(c) The Arkansas Medal of Honor Commission shall:

(1) Meet as necessary to review and approve the names of Medal of Honor recipients submitted for possible inclusion on the Arkansas Medal of Honor Memorial;

(2) Provide the Secretary of State the names of Medal of Honor recipients that are to be added to the Arkansas Medal of Honor Memorial;

(3) Provide the Capitol Arts and Grounds Commission design and layout recommendations for the adding of Medal of Honor recipients' names to the Arkansas Medal of Honor Memorial; and

(4) Solicit, receive, and disburse funds necessary to accomplish the Arkansas Medal of Honor Commission's duties under this subsection.

(d) State funding shall not be utilized to accomplish the purposes of this chapter.

History. Acts 2019, No. 926, § 2.

A.C.R.C. Notes. Acts 2019, No. 926, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) Several Arkansans have been awarded the Medal of Honor and deserve recognition for their service to this country;

"(2) An Arkansas Medal of Honor Commission was created by Acts 1997, No. 1217, and Acts 1999, No. 564, authorized the construction and maintenance of a

monument on the State Capitol grounds to honor Medal of Honor recipients from Arkansas;

"(3) The Arkansas Medal of Honor Commission was abolished by Acts 2001, No. 783;

"(4) A new Arkansas Medal of Honor Commission is necessary to solicit the funding for the design, construction, and dedication of additional plaques on the Arkansas Medal of Honor Memorial to honor new Medal of Honor recipients."

CHAPTER 11

SENIOR ARKANSANS HALL OF FAME

SECTION.

13-11-102. Administration — Rules.

13-11-102. Administration — Rules.

(a) The Senior Arkansans Hall of Fame shall be administered by the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, in consultation with the House Committee on Aging, Children and Youth, Legislative and Military Affairs.

(b) The division will promulgate rules to implement the hall of fame and to select candidates for inclusion.

History. Acts 1991, No. 1218, § 2; 2017, No. 913, § 39.

Amendments. The 2017 amendment, in (a), substituted “Division of Aging, Adult, and Behavioral Health Services”

for “Division of Aging and Adult Services” and “House Committee on Aging, Children and Youth, Legislative, and Military Affairs” for “Joint Interim Committee on Aging and Legislative Affairs”.

CHAPTER 12

ARKANSAS FORESTERS HALL OF FAME

SECTION.

13-12-103. Rules.

13-12-103. Rules.

The Dean of the Department of Forest Resources at the University of Arkansas at Monticello shall promulgate such rules as are necessary to implement the provisions of this chapter.

History. Acts 1995, No. 111, § 1; 2019, No. 315, § 983.

substituted “Rules” for “Regulations” in the section heading and in the text.

Amendments. The 2019 amendment

CHAPTER 13

ARKANSAS CIVIL WAR SESQUICENTENNIAL COMMISSION

SECTION.

13-13-101. Arkansas Civil War Sesquicentennial Commission.

SECTION.

13-13-102. Members.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General As-

sembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and

Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

13-13-101. Arkansas Civil War Sesquicentennial Commission.

(a) The Arkansas Civil War Sesquicentennial Commission is created to assist the Division of Arkansas Heritage in carrying out its duties and responsibilities as provided in this chapter.

(b) The purpose of the commission is to:

(1) Promote a suitable statewide observance of the sesquicentennial of the Civil War;

(2) Cooperate and assist national, state, and local organizations with programs and activities suitable for the sesquicentennial observance;

(3) Assist in ensuring that any observance of the sesquicentennial of the Civil War is inclusive and appropriately recognizes the experiences and points of views of all people affected by the Civil War; and

(4) Provide assistance for the development of programs, projects, and activities on the Civil War that have lasting educational value.

History. Acts 2007, No. 635, § 1; 2019, No. 910, § 5615.

substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage" in (a).

Amendments. The 2019 amendment

13-13-102. Members.

(a) The Arkansas Civil War Sesquicentennial Commission shall consist of fifteen (15) members. The members shall elect a chair from the membership every four (4) years.

(b)(1) The Governor shall appoint four (4) members to serve four-year terms.

(2) The Speaker of the House of Representatives and the President Pro Tempore of the Senate each shall appoint two (2) members to serve four-year terms.

(c)(1) These persons shall be residents of Arkansas who are recognized as being learned and interested in the history and the archeology of this state and who have demonstrated an interest in preserving the cultural resources of the state.

(2) These persons also shall have a background in:

(A) Arkansas history;

(B) African-American history; or

(C) Civil War history.

(3)(A) Persons initially appointed by the Governor shall serve two-year terms. Persons initially appointed by the Speaker of the House of Representatives shall serve three-year terms and persons initially appointed by the President Pro Tempore of the Senate shall serve four-year terms.

(B) Subsequent appointees shall serve four-year terms.

(C) Members may be reappointed.

(4) The remaining Arkansas Civil War Sesquicentennial Commission membership shall consist of the following persons or their designees:

(A) Director of the Division of Arkansas Heritage;

(B) Secretary of the Department of Parks, Heritage, and Tourism;

(C) Director of the Old State House Museum;

(D) President of the Arkansas Historical Association;

(E) Director of the Arkansas State Library;

(F) Chair of the Martin Luther King, Jr. Commission; and

(G) President of the Arkansas Civil War Heritage Trails Foundation.

(5) The following persons shall serve in an advisory capacity:

(A) Commander-in-Chief of the Sons of Confederate Veterans;

(B) President General of the United Daughters of the Confederacy;

(C) Superintendent of the Pea Ridge National Military Park; and

(D) Commander-in-Chief of the Sons of Union Veterans of the Civil War.

(d) Members of the Arkansas Civil War Sesquicentennial Commission shall serve without pay but may receive reimbursement in accordance with § 25-16-902.

History. Acts 2007, No. 635, § 1; 2016 (3rd Ex. Sess.), No. 2, § 120; 2016 (3rd Ex. Sess.), No. 3, § 120; 2019, No. 910, § 5616.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 126, provided:

“(a) Except as provided in this section, provisions of this act altering the appointment structure of a task force, commission, committee, or other governmental entity shall not shorten the term of any member of the task force, commission, committee, or other governmental entity but shall be implemented by the filling of vacancies.

“(b) The Governor may remove a member of the Arkansas Governor’s Mansion Commission who was appointed to the commission before the effective date [May 23, 2016] of Section 85 of this act.”

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3, in (a), substituted “fifteen (15) members” for “sixteen (16) members” in the first

sentence and “the membership” for “among the commission members” in the second sentence; and deleted former (c)(4)(C) and redesignated the remaining subdivisions accordingly.

The 2019 amendment substituted “Director of the Division of Arkansas Heri-

itage” for “Director of the Department of Arkansas Heritage” in (c)(4)(A); and substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Department of Arkansas Parks and Tourism” in (c)(4)(B).

CHAPTER 14

HERITAGE TRAILS SYSTEM ACT

SECTION.

13-14-103. Arkansas heritage trails.

13-14-104. Designation of heritage trails.

SECTION.

13-14-105. Studies of prospective heritage trails.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodedified sections of this act preceding the emer-

gency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

13-14-103. Arkansas heritage trails.

- (a) A heritage trail shall:
 - (1)(A) Be a trail or route established by historic use and shall be historically significant as a result of that historic use.
 - (B) A route shall not be required to exist as a discernible trail to qualify as a heritage trail, but its location shall be sufficiently known to permit evaluation of historical interest potential;
 - (2)(A) Accurately follow the historic route with some deviations as necessary to avoid difficult routing through subsequent development or to enhance the public’s enjoyment of the heritage trail.
 - (B) Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked as segments that link to the historic trail;
 - (3) Be of state or national significance to Arkansas or American history, including without limitation trade, commerce, exploration, migration, settlement, or military campaigns;
 - (4) Have a far-reaching effect on broad patterns of American culture, including trails significant to the history of American Indians; and

(5)(A) Have significant potential for public recreational use or historical interest based on historical interpretation and appreciation, including roadless segments developed as historic trails and at historic sites associated with the trail.

(B) The presence of recreation potential unrelated to historic appreciation is not sufficient for designation as a heritage trail.

(b)(1) A heritage trail shall follow as closely as possible and practicable the original trails or routes of travel of state historic significance.

(2) The purpose of a heritage trail is the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment.

(c) A land-based or water-based component of an historic trail that is on state-owned land and meets the criteria for a heritage trail shall be included as a state-protected component of a heritage trail.

(d) The Department of Parks, Heritage, and Tourism shall:

(1) Administer the provisions of this chapter; and

(2) Establish a uniform marker for the Arkansas heritage trails system.

History. Acts 2009, No. 728, § 1; 2019, No. 910, § 5617.

Amendments. The 2019 amendment substituted “Department of Parks, Heri-

tage, and Tourism” for “Department of Parks and Tourism” in the introductory language of (d).

13-14-104. Designation of heritage trails.

(a) The General Assembly shall identify the trails or categories of trails that are part of the Arkansas heritage trails system.

(b) The following are designated as heritage trails:

(1) Butterfield Stage Route, a bifurcated route from the Missouri state line near Pea Ridge, Arkansas, to the Oklahoma state line near Fort Smith and from Memphis to Fort Smith;

(2) The Southwest Trail from the Missouri border to the Texas border;

(3) American Indian removal routes designated by the Department of Parks, Heritage, and Tourism, including without limitation land and water routes for Cherokee, Choctaw, Muscogee (Creek), Chickasaw, and Seminole tribes; and

(4) Civil War troop movement routes designated by the department.

History. Acts 2009, No. 728, § 1; 2019, No. 910, § 5618.

Amendments. The 2019 amendment

substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (b)(3).

13-14-105. Studies of prospective heritage trails.

(a) The Department of Parks, Heritage, and Tourism, in consultation with the Arkansas State Archives, the Arkansas Historic Preservation Program, and the Arkansas Department of Transportation, shall con-

duct studies to determine the feasibility of designating additional trails as heritage trails.

(b) Studies under this section shall include without limitation:

- (1) The proposed route of the trail;
- (2) The areas adjacent to the trail to be utilized for historic purposes;
- (3) The characteristics making the trail worthy of designation as a state heritage trail and its historic significance;
- (4) The current ownership status of the land and the current and potential use of the designated route;
- (5) The plans for developing and maintaining the trail and the potential cost; and
- (6) The anticipated impact of public outdoor recreation use on the preservation of the prospective heritage trail.

(c) The following routes shall be studied by the Department of Parks, Heritage, and Tourism to determine the feasibility and desirability of designating other trails as heritage trails:

- (1) The Line Road from Van Buren to Evansville;
- (2) The Memphis to Little Rock Road;
- (3) The Rock Roe Landing connection to the Memphis to Little Rock Road from where Rock Roe enters the White River to the Memphis to Little Rock Road;
- (4) The Cadron to Arkansas Post Road;
- (5) The Little Rock to Fort Smith Road section to Potts old place north of Potts Tavern;
- (6) The Little Rock to Fort Smith and Fort Gibson section from Potts to Fort Smith crossing the Arkansas River at Dardanelle;
- (7) The Upper Cut Road;
- (8) The Little Rock to Washington Road;
- (9) The Old Fort Towson Road from Washington to American Indian Territory;
- (10) The Antoine to Fort Towson Road;
- (11) The Ecore Fabre to Washington Route; and
- (12) The Ecore Fabre to Point Chicot Road.

History. Acts 2009, No. 728, § 1; 2016 (3rd Ex. Sess.), No. 2, § 121; 2016 (3rd Ex. Sess.), No. 3, § 121; 2017, No. 707, § 23; 2019, No. 910, §§ 5619, 5620.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely

and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted “State Archives” for “History Commission” in (a).

The 2017 amendment substituted “Department of Transportation” for “State Highway and Transportation Department” in (a).

The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (a) and the introductory language of (c).

CHAPTER 15

ARKANSAS DELTA MUSIC TRAIL ACT

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS DELTA MUSIC COMMISSION.
3. ARKANSAS DELTA MUSIC TRAIL PROGRAM.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 13-15-101. Title.
13-15-102. Definitions.

13-15-101. Title.

This chapter shall be known and may be cited as the “Arkansas Delta Music Trail Act”.

History. Acts 2019, No. 1066, § 1.

13-15-102. Definitions.

As used in this chapter:

(1) “Art project” means a work of visual art, including without limitation a sculpture, mural, photographic rendering, mosaic, and electronic art installation, that is:

- (A) Permanently installed in a space;
- (B) Visible from public roadways and walkways without the payment of a required fee; and

(C) Installed within two (2) miles of a designated music highway;

(2) “Designated music highway” means each of the following:

- (A) Rock ‘n’ Roll Highway 67, as designated in § 27-67-223;
- (B) Louis Jordan Memorial Highway, as designated in § 27-67-227;
- (C) Levon Helm Memorial Highway, as designated in § 27-67-227;
- (D) Sister Rosetta Tharpe Memorial Highway, as designated in § 27-67-227;
- (E) Americana Music Highway, as designated in § 27-67-227;
- (F) Johnny Cash Memorial Highway, as designated in § 27-67-227; and
- (G) Delta Rhythm & Bayous Highway, as designated in § 27-67-226;

(3) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity; and

(4)(A) "Qualified expenses" means the costs and expenses incurred by a person to create and install an art project.

(B) "Qualified expenses" includes without limitation the cost of supplies necessary to create and install an art project and the cost of an artist's labor in creating the art project.

(C) "Qualified expenses" does not include costs or expenses related to building a structure that is not used exclusively to support or display an art project.

History. Acts 2019, No. 1066, § 1.

SUBCHAPTER 2 — ARKANSAS DELTA MUSIC COMMISSION

SECTION.

13-15-201. Creation — Membership.

13-15-202. Meetings.

SECTION.

13-15-203. Powers and duties.

13-15-204. Biennial report.

13-15-201. Creation — Membership.

(a) There is created the Arkansas Delta Music Commission within the Division of Arkansas Heritage.

(b) The commission shall be composed of nine (9) members:

(1) The Director of the Division of Arkansas Heritage or his or her designee;

(2) The Secretary of the Department of Parks, Heritage, and Tourism or his or her designee; and

(3)(A)(i) One (1) individual who shall be appointed from each region containing a designated music highway.

(ii) The region for each designated music highway shall be composed of the counties through which the designated music highway runs.

(B) The Governor shall appoint the members of the commission under this subdivision (b)(3).

(C)(i) Four (4) of the members appointed under this subdivision (b)(3) shall have a background in the arts.

(ii) The remaining three (3) members shall have a background in the arts, history, or tourism.

(c)(1) The term of office of the initial members of the commission appointed under subdivision (b)(3) of this section shall be determined by lot as follows:

(A) The initial term of office of three (3) of the members shall be two (2) years; and

(B) The initial term of office of four (4) of the members shall be three (3) years.

(2) All successor members, other than those appointed to fill unexpired terms, shall serve two-year terms.

(d) All vacancies in positions filled by members appointed under subdivision (b)(3) of this section shall be filled by appointment by the Governor and shall be for the remainder of the term.

(e) Members of the commission shall serve without compensation for their service but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) The Division of Arkansas Heritage shall provide meeting space and staffing for the commission.

History. Acts 2019, No. 1066, § 1.

13-15-202. Meetings.

(a)(1) The Arkansas Delta Music Commission shall meet as often as necessary to perform its duties under this chapter.

(2) The commission shall meet at least quarterly.

(b) The Director of the Division of Arkansas Heritage shall call the first meeting of the commission.

(c)(1) At the first meeting of the commission, the commission shall select a Chair of the Arkansas Delta Music Commission.

(2) The chair shall serve as chair for the period of time determined by the commission.

(d) A quorum for each meeting of the commission shall be five (5) members.

(e) A majority vote of the members present is required for the commission to take action.

History. Acts 2019, No. 1066, § 1.

13-15-203. Powers and duties.

(a) The Arkansas Delta Music Commission shall:

(1) Develop, implement, and administer a tourism program based on art projects that focus on highlighting music stories and related dynamics on the designated music highways;

(2) Develop guidelines for the types of art projects that will be eligible for the tax incentives provided in this chapter and the process for applying for approval of qualified expenses for art projects under this chapter;

(3) Create a signage program that captures the stories, biographies, and points of interest in blues, rock and roll, jazz, rockabilly, soul, hip hop, opera, country, and gospel music throughout the Arkansas Delta;

(4) Maintain information about federal and state grant opportunities to encourage cities and towns to develop exhibits related to the musical heritage of the city or town; and

(5) Adopt rules necessary to implement the Arkansas Delta Music Trail Program created under this chapter, including without limitation rules stating:

(A) The procedure to apply for approval of qualified expenses; and

(B) The criteria to be used by the commission when determining whether to approve qualified expenses and issue a certificate of completion for an art project.

(b) The commission may accept, receive, and use grants, moneys, equipment, material, services, and real and personal property donated, bequeathed, or devised for any purpose relating to the activities of the commission and not expressly designated for any other agency.

History. Acts 2019, No. 1066, § 1.

13-15-204. Biennial report.

(a) The Arkansas Delta Music Commission shall submit a report by December 31 of each even-numbered year to the:

- (1) Governor;
- (2) Chair of the Senate Committee on Revenue and Taxation;
- (3) Chair of the House Committee on Revenue and Taxation;
- (4) Chair of the Senate Committee on Agriculture, Forestry, and Economic Development; and
- (5) Chair of the House Committee on Agriculture, Forestry, and Economic Development.

(b) The report required under subsection (a) of this section shall include:

- (1) The commission's goals for increasing the number of art projects and signage over the next biennium;
- (2) The economic development opportunities the commission will focus on over the next biennium;
- (3) The qualified expenses approved under this chapter during the biennium for which the report is being made, including without limitation:

(A) The name of the person who applied for approval of qualified expenses for an art project;

(B) A description of the art project for which the qualified expenses were approved; and

(C) The location of the art project for which the qualified expenses were approved; and

(4) The benefits realized in terms of economic development as a result of the commission's actions and the tax incentives provided under this chapter.

History. Acts 2019, No. 1066, § 1.

SUBCHAPTER 3 — ARKANSAS DELTA MUSIC TRAIL PROGRAM

SECTION.

13-15-301. Creation.

13-15-302. Income tax credit for approved art project.

13-15-303. Application for approval of

SECTION.

qualified expenses — Certificate of completion.

13-15-304. Highway signage.

13-15-301. Creation.

(a) The Arkansas Delta Music Commission shall establish and administer the Arkansas Delta Music Trail Program to:

(1) Create a tourism program based on art projects that focus on highlighting music stories and related dynamics on the designated music highways;

(2) Provide tax incentives to eligible persons for the creation and installation of an art project under this chapter; and

(3) Create a signage program that captures the stories, biographies, and points of interest in blues, rock and roll, jazz, rockabilly, soul, hip hop, opera, country, and gospel music throughout the Delta region of Arkansas.

(b) The Division of Arkansas Heritage and the Department of Parks, Heritage, and Tourism shall provide assistance to the commission in establishing and administering the program.

History. Acts 2019, No. 1066, § 1.

13-15-302. Income tax credit for approved art project.

(a) There is allowed an income tax credit against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in an amount equal to the lesser of one hundred percent (100%) of the total qualified expenses stated in a certificate of completion issued by the Arkansas Delta Music Commission under § 13-15-303 or twenty-five thousand dollars (\$25,000).

(b) The amount of the income tax credit under this section that may be claimed by the taxpayer in a tax year shall not exceed the amount of income tax due by the taxpayer.

(c) Any unused income tax credit under this section may be carried forward for five (5) consecutive tax years following the tax year in which the income tax credit was earned.

History. Acts 2019, No. 1066, § 1.

13-15-303. Application for approval of qualified expenses — Certificate of completion.

(a) A person may apply to the Arkansas Delta Music Commission for approval of qualified expenses for the purpose of claiming the income tax credit allowed under § 13-15-302.

(b) An application for approval of qualified expenses shall:

(1) Be for an art project that will:

(A) Stimulate regional tourism;

(B) Enhance local community development efforts;

(C) Create opportunities for Arkansas artists to showcase their work;

(D) Enhance the community where the art project will be located; and

(3) (E) Promote awareness and encourage the enjoyment of the stories, biographies, and points of interest in blues, rock and roll, country, and gospel music throughout the Arkansas Delta;

(2) Be in the form prescribed by the commission; and

(3) Indicate the amount of qualified expenses the applicant expects to incur.

(c)(1) The commission shall not approve qualified expenses exceeding two hundred fifty thousand dollars (\$250,000) in any one (1) calendar year.

(2)(A) The total amount of qualified expenses that may be approved under this subsection shall be divided among the designated music highways in proportion to each designated music highway's length as compared to the total length of all of the designated music highways.

(B) If the commission does not approve qualified expenses under this section that are equal to the amount of funds allocated to a designated music highway under subdivision (c)(2) of this section, the commission may reallocate the funds to another designated music highway to fund one (1) or more additional art projects.

(3)(A) The approval of qualified expenses under this section is contingent on the appropriation and availability of funding for the Arkansas Delta Music Trail Program.

(B) The commission shall not solicit or accept applications for the program if funds for the program are not available.

(d) At least one-third ($\frac{1}{3}$) of art projects for which qualified expenses are approved under this section shall be visible from a designated music highway.

(e)(1) Upon completion of an art project, the owner shall submit documentation required by the commission to verify that the completed art project complies with the requirements of this chapter.

(2) If the commission determines that an art project is complete and complies with the requirements of this chapter, the commission shall issue a certification of completion specifying the total amount of qualified expenses and the income tax credit allowed under this subchapter.

History. Acts 2019, No. 1066, § 1.

13-15-304. Highway signage.

(a) The Arkansas Department of Transportation shall erect appropriate signs along each of the designated music highways, including without limitation a sign at or near each of the art projects that has been issued a certificate of completion under § 13-15-303.

(b) If the Arkansas Department of Transportation does not have the funds available to erect the signs required under subsection (a) of this section, the Arkansas Department of Transportation may accept and use gifts, grants, and donations received from private, public, and nonprofit sources, including without limitation a city street department or a county road department for:

- (1) Acquiring and installing the signs required under subsection (a) of this section; and
- (2) Maintaining, replacing, or reconstructing the signs required under subsection (a) of this section.

History. Acts 2019, No. 1066, § 1.

